

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

1. PLANNING APPLICATIONS

This section includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Head of Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Head of Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item **1.1**

Reg. No. **9/2008/0931/NO**

Applicant:

Mr Rafiq Bhajani
Ashfields Residential Care Home
Ash Lane
Etwall
Derbyshire
DE65

Agent:

Mr Stephen Parker
ASP Consulting (Melbourne) Ltd
140 Packhorse Road
Melbourne
Derbyshire
DE73 8BZ

Proposal: **The erection of an extension to provide additional
bedrooms and kitchen/dining facility at Ashe Fields
Rest Home Ash Lane Etwall Derby**

Ward: **Etwall**

Valid Date: **09/10/2008**

Reason for committee determination

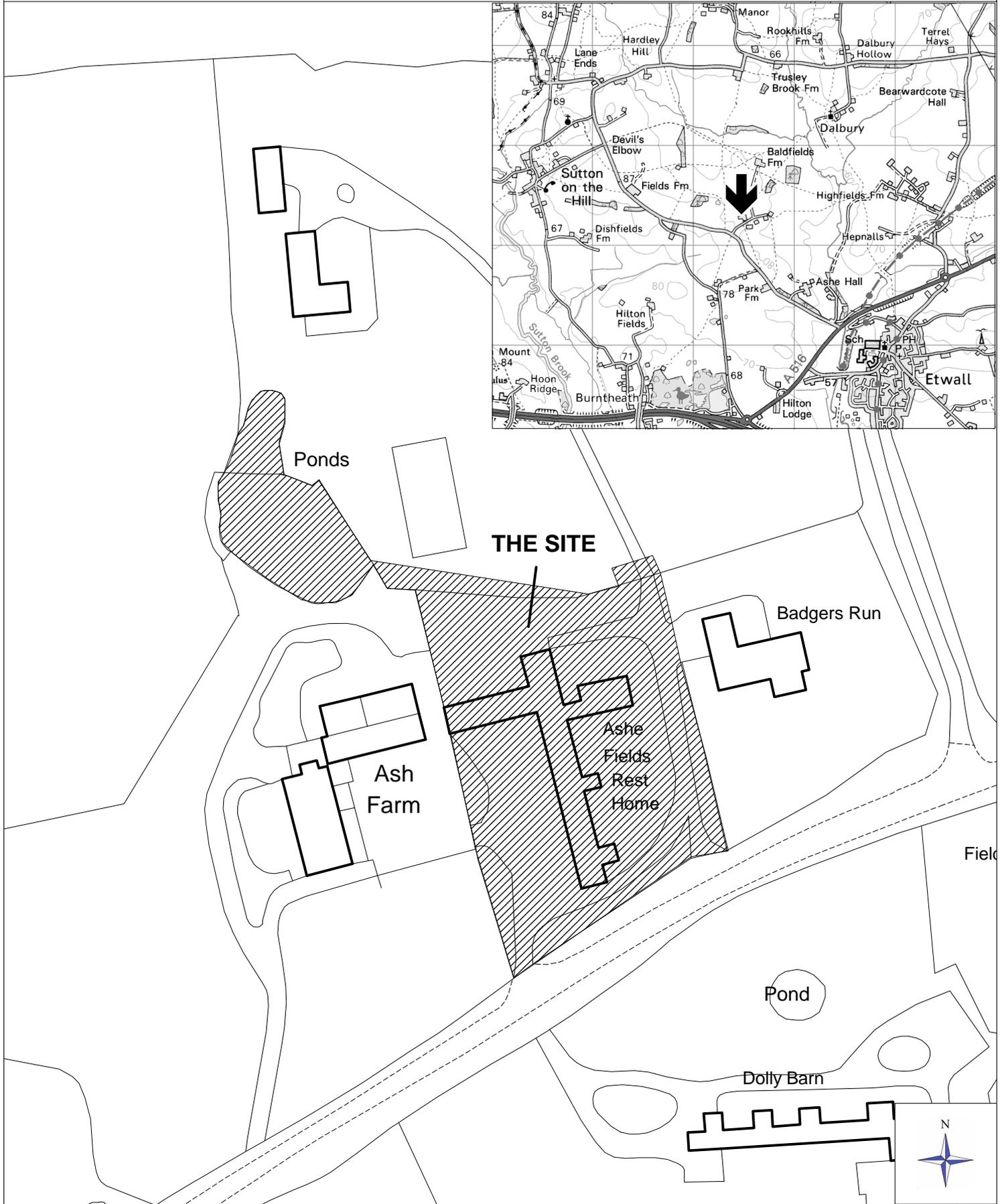
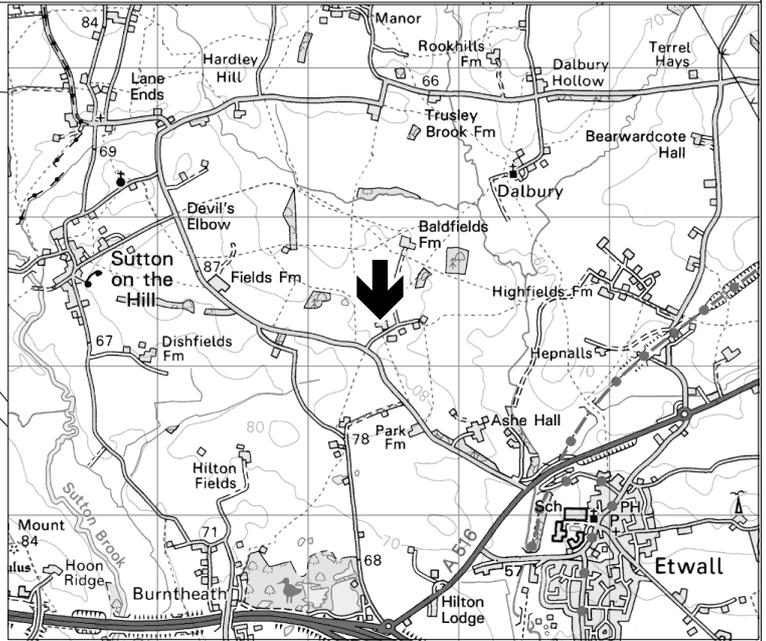
The application is brought before Committee at the request of Councillor Lemmon because local concern has been expressed about a particular issue, which should be considered by the Committee.

Site Description

The site is located some 1.7 miles north east of the centre of Hilton and 1.2 miles north west of the centre of Etwall. It is reached via an adopted but unclassified spur road off Ash Lane that serves the rest home and a handful of other properties. From the spur road are two accesses into the site one to the west serving the rest home main car park the other to the east which is used for service vehicles for the rest home and which also serves Tanglewood to the east and Ash Pond Nurseries which lies approximately 80metres to the north.

The established rest home use occupies buildings originally the barns of Ash Farm and as such the main part of the existing building is long, narrow and single storey in the centre of the site. Later two storey and single storey additions extend to the east and west in line with the neighbouring adjacent properties of Ash Farm (to the west) and Tanglewood (to the east). The latter property, previously known as 'Badgers Run', was linked to the Rest Home for use by staff until it was privately sold in 2004. Dolly Barn is located opposite the site.

9/2008/0931 - Ashe Fields Rest Home, Ash Lane, Etwall



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Proposal

Planning permission is sought for a single storey and two storey extension to the existing Care Home to provide additional accommodation for 20 residents. The proposed extensions are to the north of the existing building and would be attached to previous extensions.

The main part of the extension would be two storey attached to the existing two storey part of the building and would create an enclosed courtyard. It would provide 23 bedrooms, however, existing accommodation within the main building would be improved and thus the additional accommodation would only increase the number of residents by 20.

The single storey part would also be to the north and would be attached to the existing single storey extension. It would improve existing facilities at the home by providing a large kitchen and dining room.

The existing reception area on the southern elevation would also be replaced with an improved pitched roof addition.

In order to improve security for residents a 1.5m post and rail fence is proposed on the southern and eastern boundaries with gates at the main access.

Applicants' supporting information

In support of the application are the following related papers:-

- Design and Access Statement
- Deed of the Right of Way for Tanglewood, Ash Lane
- Application for the consent to discharge into the roadside drain
- Environment Agency Foul Drainage Assessment Form
- Details of BioDisc Sewerage Treatment Plant
- Written confirmation that owner of Ash Pond Nurseries has an agreement with the owners of the care home to have a piece of land to allow for better vehicle access to the rear of the home.

Planning History

9/1990/1265 – Erection of single storey extensions to provide ten additional bedrooms, two bathrooms and a toilet at the rear of the rest home, granted 17/7/90

9/1999/1012 – Erection of conservatory to side, granted 10/5/99

9/2000/0057 – Renewal of planning permission 9/0195/0812/F for the erection of single storey extensions, granted 15/3/00

9/2005/0003 – Renewal of planning permission 9/2000/0057/F for the erection of a single storey extensions, granted 21/2/05

Responses to Consultations

Severn Trent Water Ltd – No objection

Environmental Health – No objection subject to the current drainage system being replaced by a sewerage treatment plant and the existing soakaway in the neighbour's garden being capped off and unused as stated in the application.

The County Highways Authority - (i) In relation to the impact from generated traffic arising from the proposed additional facilities whilst Ash Lane is not ideal to serve a commercial operation it is considered that, bearing in mind that the premises already exist, there will not be demonstrable material impact to a degree that would justify a recommendation of refusal on highway grounds which could be sustained in the event of an appeal.

(ii) In relation to the manoeuvring of a service vehicle, the amended plan indicates the swept path of a refuse vehicle that is assumed to represent the maximum size of vehicle that habitually calls at the premises. The amended red line of the application to incorporate land at the northern end of the track leading to Ash Pond Farm has provided some additional space for this manoeuvring. Whilst the area available remains constrained it is considered that there is sufficient space provided such that a driver is likely to turn within it rather than reverse along the track. On this basis there are no highways objections subject to conditions relating to an area for the storage of plant, details of and the laying out of the parking and manoeuvring areas and wheel washing during construction.

Environment Agency – Based on the details on the submitted plan 2701/02, the drainage proposals are acceptable. The application for Consent to Discharge is an acceptable proposal. The proposal to discharge from a package treatment plant to the road side drain, which will be re-piped to connect to the un-named watercourse is a suitable solution to improve the existing discharge of septic tank to soakaway.

Derbyshire County Council Streetworks – The drainage scheme is acceptable.

Etwell Parish Council – Object on the following grounds:-

- The proposed extension is still right next to the boundary and overlooking Ash Farm.
- The size and positions of the extensions upsets the rural character of the area.
- We would support any objections from neighbours regarding extra traffic, noise and waste.
- We would like to see an actual picture of the proposed rail fence to ensure it is in keeping with the area and would not 'industrialise' it.

Responses to Publicity

Six letters of objection were received on the initial proposal and two letters of objection were received in relation to the amended plans. The reasons for objections are as follows:-

1. Previous decision to allow a change of use of Tanglewood from a staff residence for the care home to a private dwelling has led to the problems of sewerage overflow
2. A field adjacent to Ash Pond Nursery is being used for recreation for motorbikes
3. Extensions not in keeping with rural hamlet and would increase the need for waste disposal, cleaning, fuel and food delivery.
4. Increase in the amount of sewerage effluent is a concern due to the overflow from a manhole onto the verge and road.
5. Increase in traffic and the road that runs from Ash Lane to the rest home is not wide enough to cope at the moment with the volume of lorries and vehicles delivering to the premises.
6. Lack of bus service means visitors can only access the home by private car or taxi.

7. Concerns with regard the increase in water usage and surface water run-off.
8. Over-development of the site and the scale of the extensions would overpower the existing buildings.
9. Extensions would consume the majority of the remaining open space.
10. Overshadowing of 'Tanglewood', reducing privacy and overbearing.
11. Concerns that the capacity of the soak-away is sufficient to serve the additional volume.
12. The fence and gates proposed would be incongruous in this rural setting and would impair the visual outlook of neighbouring properties.
13. Increase in cooking smells, kitchen noise and waste bin activity to an unacceptable level.
14. Tanglewood and Ash Farm Nursery have a legal right of access from the public lane via the front entrance of the rest home and gating this access would extinguish this right.
15. The vehicles that service the rest home are large and are damaging the access road and there is no satisfactory turning area.
16. Query increase in demand for care home rooms as there is an approved 60 bed care home to be built near Etwall village.
17. Lack of sufficient parking and 50% increase in vehicle movements to the detriment of highway safety.
18. The junction from the rest home to Ash Lane has poor visibility.
19. Waste bin storage not sufficient.
20. Require assurances that the manholes and pipeworks would be to Highways standards.
21. Lack of detail on the routine flow of surface water and whether this has been covered with the Environment Agency.
22. Computer modelling of turning of vehicles not adequate as currently vehicles struggle to turn with more space available than is proposed.

Development Plan Policies

The relevant policies are:

Derby and Derbyshire Joint Structure Plan: General Policies 1 and 2

Local Plan: Housing Policy 11, Environment Policy 1, Transport Policy 6

National Guidance

PPS1: PPS 3: PPS 7

Planning Considerations

The main issues central to the determination of this application are:

- The impact on the amenity of neighbouring properties
- Highways issues in relation to access and parking
- Drainage issues
- Visual impact in relation to the existing building and surrounding area

Planning Assessment

Residential Amenity

The residential part of Ash Farm is 20m south west of where the main two storey extension is proposed and is separated from it by an attached two storey ancillary building which has a small window on the first floor and the end gable of a garage and

storage building. There is a 1.8m high pillared wall with sections of fence panels along the western boundary of the application site and the proposed three groundfloor windows are to a corridor (not habitable rooms). The small three windows at first floor are also onto a corridor and are to be obscurely glazed. On this basis it is considered that in terms of overlooking and overshadowing of Ash Farm the proposal is acceptable.

Tanglewood is an 'L' shaped bungalow to the east which has a main elevation facing the rest home building. Currently the eastern boundary is open, however, a 1.5m fence is proposed as part of this application. The eastern elevation of the single storey extension proposes three windows that would serve the dining room. These windows would be 13.5m from the front elevation of Tanglewood and would have the lower panes obscurely glazed.

Whilst four corridor windows and two small bathroom windows of the two storey extension would be visible they would be some 28.8 metres from the front elevation of this property. On this basis it is considered that in terms of overlooking and overshadowing of Tanglewood the proposal is acceptable.

Highways Issues

The main issues are in relation to access to the site and parking and servicing requirements. The access is via a single track road, however, this is an established use whereby increases in traffic would not be significant. There are 20 residents at the rest home at present, which have on average 4 visitors a day. This would increase to 8 visitors a day with the addition of the 20 proposed new residents. There are 6 staff. This would mean 14 spaces are required. The existing parking area could accommodate 16 spaces incorporating 2 disabled spaces adjacent to the entrance. The County Highways Authority considers the parking to be sufficient.

Comments from a neighbouring property indicate that the existing turning area for service vehicles is not sufficient. However, an agreement has been reached with the owner of Ash Pond Nurseries to use an area of land at the entrance to the nursery to improve the turning area for vehicles. A section of grass would also be removed to create space for turning. The layout plan indicates a swept path of a refuse vehicle measuring 9m in length which provides evidence that sufficient turning can be achieved and the County Highways Authority has confirmed that this is the case.

Drainage

Many concerns have been raised by neighbouring residents in relation to the existing drainage problems such as overflowing effluent on the road verges and road itself at certain periods. The existing drainage system has been investigated and as such a decision to re-pipe the section of pipe from in front of the Rest Home for discharge into a small water course east adjacent to the road is proposed as part of this application. A new sewerage treatment plant is proposed adjacent to the northern boundary adjacent to the service vehicle turning area. The proposed works are acceptable to the Environment Agency and the County's Streetworks Section.

The Council's Pollution Control Officer has no objection provided that the existing drainage system is replaced by the sewerage treatment plant and a condition requiring the existing soak-away in the neighbour's garden be capped off and unused.

Given the above there are no reasonable grounds in terms of how the drainage is to be provided for refusing the application.

Visual Impact

The proposed extensions would not be visible from the main entrance to the rest home from the South as the heights of the extensions do not exceed the existing ridge heights of the buildings. The extensions would be visible from Ash Pond Nursery to the north and potentially long distance views from the footpath to the north. However, from that direction the extensions would be viewed against the existing buildings and as such would not have a significant impact on the openness of the countryside. The scale and design of the extensions are considered to be in keeping with the existing building. Further landscaping on the northern boundary is however recommended through a landscaping condition.

To clarify the situation with regards the Right of Way to Tanglewood the gates referred to are proposed at the existing entrance to the car parking area and the eastern access to the service road which runs to the south of the building. The access road to Tanglewood and Ash Pond Nurseries would not be gated.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. No development shall be commenced until details of the area to be surfaced to accommodate the manoeuvring of service vehicles at the northern end of the access road to the east of the premises has been submitted to and approved in writing by the Local Planning Authority. The surfacing shall be undertaken in accordance with the approved design prior to the extension being taken into use and thereafter the area shall be retained free of obstruction or impediment to its use for the manoeuvring of vehicles.

Reason: In the interests of highway safety.

3. Prior to the occupation of the extensions the sewerage treatment plant and drainage works detailed on plan 2701/02 G shall be completed and the existing soakaway in the garden area of the property to the east shall be capped off and unused unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of pollution control.

4. Prior to commencement of development (excluding demolition / site clearance) space shall be provided within the site curtilage for storage of plant and materials / site accommodation / loading and unloading of goods vehicles / parking and manoeuvring of site operatives and visitor vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved by the Local Planning Authority. The facilities shall be retained throughout the construction period in accordance with the approved designs free from obstruction to their designated use.

Reason: In the interests of highway safety.

5. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

6. Prior to the commencement of development details of the car parking and manoeuvring area to the front of the Rest Home shall be submitted to and approved in writing by the Local Planning Authority. The area shall be marked out in accordance with the approved design prior to the occupation of the extensions and thereafter retained for the designated purposes.

Reason: In the interests of highway safety.

7. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the extensions have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.

8. The gates hereby permitted shall be designed so as to open inwards only.

Reason: In the interests of highway safety.

9. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

10. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

11. Notwithstanding the originally submitted details, this permission shall relate to site shown red on the amended site plan and drawing no 2701/02RevG.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

12. The windows identified on the elevation plan as being obscurely glazed shall remain so in perpetuity unless otherwise agreed by the Local Planning Authority.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

- (i) Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicants responsibility to ensure that all reasonable steps (e.g street sweeping) are

taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

(ii) Rectification of damage to the highway caused during the construction process is the responsibility of the applicant. An existing condition survey must be agreed with the County Council prior to any development being commenced.

Rectification of damage to the highway caused during the construction process is the responsibility of the applicant. Any existing condition survey must be agreed with the County Council prior to any development being commenced.

Item **1.2**

Reg. No. **9/2008/1021/F**

Applicant:

Mr J Langton
Holberry Barn
Holliers Farm
Trent Side
Swarkestone
DE73 7GU

Agent:

David Granger Architectural Design
The Old Dairy
Mill Street
Packington
Ashby De La Zouch
LE65 1WN

Proposal: **The proposed conversion of barn to dwelling including
the erection of a carport at Hollies Farm Trent Side
Swarkestone Derby**

Ward: **Aston**

Valid Date: **09/10/2008**

Reason for committee determination

The application is subject to objection from the Environment Agency and the officer recommendation is to grant permission.

Site Description

The application relates to a traditional outbuilding forming part of an historic group around Hollies Farm. The site is in the conservation area. It also lies in an area at risk of flood as identified on the Environment Agency's Flood Risk Map. The building is redundant for the purposes of agriculture. The adjacent outbuilding, closer to the river, is already converted and is occupied as a dwelling.

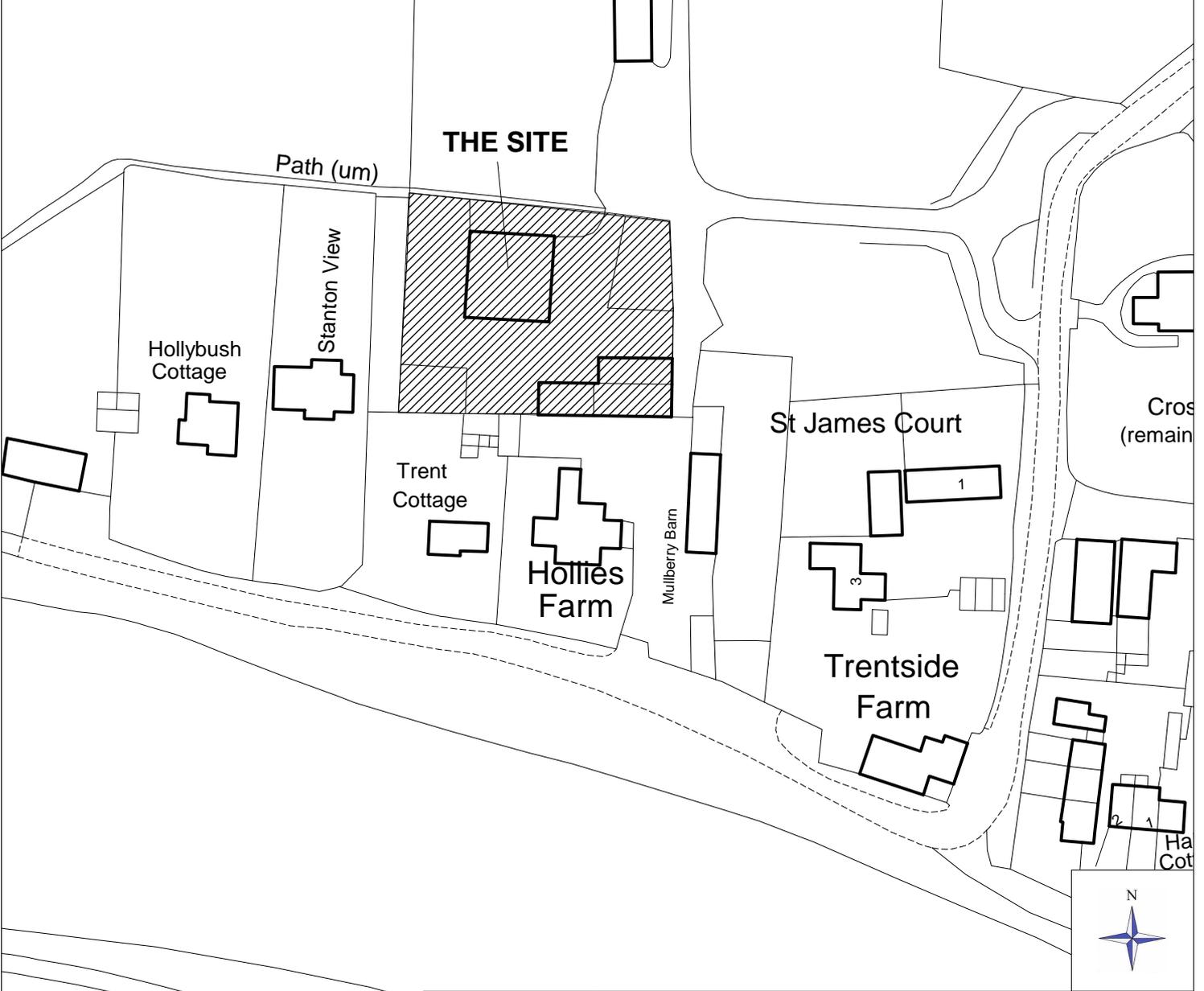
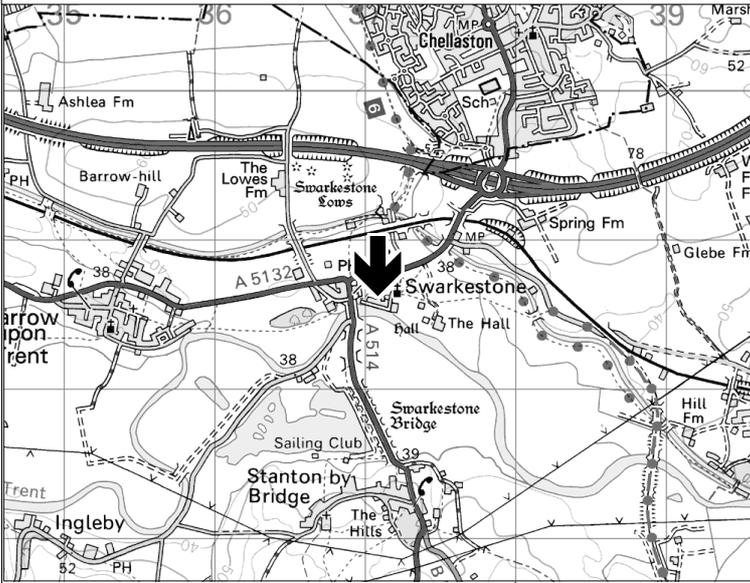
Proposal

The proposal is to convert the building to a single dwelling. The application is accompanied by a Structural Report, Flood Risk Assessment, Alternative Use Report and Protected Species Survey.

Applicants' supporting information

- The Alternative Use Report demonstrates that business and tourism uses would not be viable or practical. Furthermore the close proximity of the building to other dwellings indicates that residential conversion would be the most appropriate use for the building.
- The Structural Report demonstrates that the building could be converted without significant demolition. However signs of decay are evident.
- The Protected Species Report concludes that the building supports a small number of bats and recommends measures to improve the characteristics

9/2008/1021 - Hollies Farm, Trent Side, Swarkestone



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available for bats. Swallow habitat improvements are also recommended (not a protected species but on the 'amber' list of Birds of Conservation Concern).

- The Flood Risk Assessment concludes that there would be no increased risk to others but that the building itself would be at risk of flooding up to 1 metre. Measures are proposed to mitigate this risk, including a safe means of access via the existing track to the north of the site.
- The applicant's family have lived and worked at the site since 1927, during which time it has never flooded.
- The family is aware of the risk of flooding in the area and are registered on the Environment Agency's flood risk alert system.
- The building makes an important contribution to the conservation area and the proposal would preserve it.

Planning History

Permission was granted to convert the building to two dwellings in 1987 (9/1087/0568) and this was renewed in 1992 (9/1192/0736).

Responses to Consultations

The Highway Authority, Natural England, Design and Conservation Officer, Development Control Archaeologist and Contaminated Lane Officer have no objection in principle.

The Environment Agency objects because the building would be at risk of flood and the risk to life of occupants would be unacceptable. Furthermore the applicant has not demonstrated via a sequential test that there are more suitable locations for residential development.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

RSS: Policies 1, 3, 27 and 35

South Derbyshire Local Plan Housing Policies 5 & 11, Environment Policies 11, 12, 14

Transport Policy 6:

National Guidance

PPS7; PPS9; PPG15; PPS25;

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Impact on the character and appearance of the conservation area.
- Flood risk.
- Highway safety.

- Residential amenity.
- Nature conservation.
- Archaeology.

Planning Assessment

The site is located within the settlement confined and relates to an existing building. In principle the conversion of the building to a dwelling is acceptable as the applicant has demonstrated business use is not viable or practical.

The conversion would enable this traditional building to be put to economic use thus securing the maintenance of its fabric and preserving the character and appearance of the conservation area.

The building would be at risk of flood. However there are measures available to mitigate the effects of a major flood. The occupiers would be able to leave the site in safety via the existing farm track to the north. Furthermore, whilst accepting the principle of avoiding new development in areas at risk of flood the position of this building is fixed. PPS25 acknowledges that it is not appropriate to apply a sequential test (to identify suitable land not at risk of flood) to changes of use.

On the advice of the relevant consultees there would be no harm to highway safety, archaeological and wildlife interests.

The applicant controls the adjoining land and buildings. No other neighbours would be affected by the proposal.

The application does not satisfy the policy requirement of RSS Policy 35 and the guidance in PPS25 because the building would be at risk of flooding. The proposed mitigation measures in the Flood Risk Assessment would reduce the risk, albeit not sufficiently to overcome Environment Agency's specialist advice to the contrary. Nevertheless, whilst the building is not in imminent danger of collapse it is desirable to retain it in its historic context. There is no evidence that alternative uses would achieve this objective at the present time. In addition the building lies within a community that is aware of the risk of flooding and is prepared to evacuate in the event of an extreme emergency. Therefore, on the balance of the conflicting material considerations (preservation of the building versus flood risk) the proposal is capable of being acceptable.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 04.1852.15 B received 27 January 2009.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed brick and plain clay tiles, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the building.
4. There shall be no alteration to existing architectural features or the introduction of any new architectural features other than as specifically shown on the submitted drawings or as approved by any other condition attached to this permission.
Reason: In the interests of the appearance of the building.
5. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
6. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the building and the character of the area.
7. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
Reason: In the interests of the appearance of the building and the character of the area.
8. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
Reason: In the interests of the appearance of the building, and the character of the area.
9. The extent of repointing works shall be agreed in writing by the Local Planning Authority before any such works are commenced.
Reason: In the interests of the appearance of the building and the character of the area.
10. A sample panel of pointed brickwork/stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the

implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building and the locality generally.

11. Unless as may otherwise agreed in writing with the Local Planning Authority, and prior to the first residential occupation of the converted barn, a nesting facility or facilities for swallows, and bat bricks and tubes, shall be incorporated in the development, in accordance with the submitted protected Species Survey.

Reason: In the interests of the preservation of the species.

12. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
D) If required by the conceptual site model no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

13. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

14. The mitigation measures identified in the submitted Flood Risk Assessment shall be implemented prior to the first occupation of the development in accordance with details and specifications that shall have previously been submitted to and

approved in writing by the Local Planning Authority. The approved measures shall be retained for the life of the development.

Reason: The building is at serious risk of flood and the measures are necessary to reduce the associated risk to life and property.

15. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building and the character of the area.

16. The extended boundary wall shall use facing materials and copings to match the existing wall in colour coursing and texture, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area.

17. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

18. The car parking spaces/manoeuvring areas shown on the submitted plan shall be laid out prior to the first use of the development and thereafter retained for that purpose free of impediment to its designated use.

Reason: In the interests of highway safety.

Informatives:

It is reported that bats frequent/inhabit the site. It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform English Nature, Manor Barn, Over Haddon, Nr. Bakewell, Derbyshire, DE45 1JE. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332-511427).

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

There is a public footpath adjacent to the north boundary of the site. It is the developer's responsibility to ensure that the rights of footpath users are protected at all times.

The building is at risk of flood. This grant of planning permission does not imply that the risk is acceptable. The Local Planning Authority only grants permission because the building makes a positive contribution to the character and appearance of the conservation area and its preservation through re-use, on the balance of material considerations, is desirable.

Item **1.3**

Reg. No. **9/2008/1090/NO**

Applicant:

Mr David Cash
Grove cottage
Hanging Bridge
Mayfield road
Ashbourne
DE6 2BN

Agent:

Mr Richard Foxley
Acorus Rural Property Services
Woodthorpe
Wergs Road
Wolverhampton
WV6 8QT

Proposal: **Erection of agricultural building at Land to the south of
Common Lane Sutton-on-the-Hill**

Ward: **North West**

Valid Date: **31/10/2008**

Reason for committee determination

Councillor Bale has requested that the application comes before the committee as local concern has been expressed about a particular issue.

General

This is one of three applications. Each is supported by the same information and each has attracted the same number of objections to it. Accordingly this report relates to all the applications but each will have its own individual recommendation.

The applications have been delayed to ensure that the full picture in terms of access has been resolved to the satisfaction of the County Highway Authority whose final comments are reported below. It was necessary to seek clarification relating to the roadside hedge that is subject to a Countryside Stewardship Grant. It was necessary to establish whether the applicant had the ability to move the hedge and then maintain it to provide the required visibility splay. In the period that the applications have been pending, the hedge has been layered in accordance with the stewardship scheme. Photographs of the hedge on the site frontage following laying will be displayed at the meeting.

Site Description

The application site enclosed by hedges of varying heights on the four boundaries is an area of raised ground lying above the level of Common Lane. An amended plan submitted to take account of overhead powerlines shows the buildings are some 42.5 metres from the nearest dwelling at Millers Barn, 55.5 meters away from Willow Tree Cottage and over 78 metres from the rear of The Mill, a Grade II listed building.

9/2008/1090, 1091 & 1092 - Land to the South of Common Lane, Sutton-on-the-Hill



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The site has an area of disturbed ground that may contain the remains of a medieval farmhouse known as the Demesne. The access to the site would be from Common Lane via a stoned drive that would rise from the level of Common Lane up into the site.

Proposal

The development comprises the formation of the access track, an agricultural building and a large glasshouse to be constructed in 2 phases.

Phase 1 (9/2008/1090) would comprise the agricultural building and the access. The building would measure 18.4m x 9.2m with an eaves height of 3.5m and a ridge height of 5.01m. The suggested colours for the cladding of the building would be fibre cement roof sheets with laurel green profile sheets to the walls.

The applicant has submitted details of the proposed construction of the track that would involve the stripping of topsoil to a depth of 150mm and the importation of hardcore to the same depth.

Phase 2 (9/2008/1091) would be the erection of the first part of the glasshouse. It would measure 24.4m x 9.6m, the ridge height would be 4m. Phase 3 (9/2008/1092) is the remaining part of the glasshouse, which would be two bays of 24.4m x 6.4m with and both same ridge height as Phase 2. This would give an overall dimension for the glasshouse of 22.74m x 24.39m or 554m².

Since submission the application has been amended to site the buildings further into the site and this amendment is reflected in the distances from neighbours specified above.

There would be no heating in the main glasshouse, other than the propagation room. It would have a watering system and an electronic ventilation system to open and close the rooflights. When the rooflights are open the height of the building would be higher than the main ridge level. No internal or external lighting is proposed as part of the application.

Applicants' supporting information

The applicant runs an organic vegetable supply business that currently sources products from numerous organic growers in the east of England. The applicant wishes to develop a site to grow his own produce for sale through the Internet and via farmers' markets locally. Crops would be started in the glasshouse in a heated propagation area, where appropriate, and would then be grown-on either in the main glasshouse area or on the remaining land in the control of the applicant. The intention would be to grow the majority of the produce sold by the current company locally to reduce the need to transport produce to the area. The applicant states that there would be no farm gate sales or sales direct to the public from the site.

The applicant has identified relevant local and national planning policy and considers that the development is generally supported by such policy that encourages the rural economy. The intention is to produce high quality organic produce that would provide employment for one person and part-time employment for others. The design of the buildings is typical of many agricultural businesses and is of a scale and character in keeping with a landholding of this size.

There is not considered to be any significant impact on the local landscape and the applicant would be happy to discuss implementing an appropriate landscaping scheme.

In terms of the operation of the site, the applicant acknowledges that until the buildings are erected on the site, the business would continue to operate from his existing site. Once the agricultural building is erected with the Phase 2 glasshouse, all business operations would transfer to the Sutton site. Pending the first crop (which it is understood has already been planted at the site), produce would continue to be imported to enable the business to continue. This involves deliveries on 4 days per week via one vehicle; as would be the case when the produce is produced at the site. In terms of low value crops such as carrots and potatoes, these are sourced from a producer in Mansfield and arrive in 500KG loads (250kg Potatoes and 250kg carrots) every 10 – 14 days and this would not change as a result of the development. The cardboard boxes used to distribute the produce to customers are produced in Derbyshire. It is a requirement of the organic produce certification that recyclable material is used.

The applicant has produced information about the level of produce currently distributed by his business and it totals several 1000 kilograms. As a comparison, in the past year to September he distributed some 1337 Pak-choi heads – his application states that it is intended to grow some 1000 such plants. A full list of the crops that are distributed by the company is available for inspection on the files.

The applicant worked as an organic produce lecturer at Derbyshire Agricultural College for over 15 years, which gives him vast experience in the growing of such crops. He has run his "Organic Pumpkin" business for over 6 successful years now and having worked closely with his suppliers, considers the proposal will have significant benefits to his business, both financially and on a produce quality level.

The applicant also takes advice from two organic produce consultants who, if permission is granted, would continue to offer consultancy as the business becomes established on the application site.

The applicant contends that the visibility at the access is sufficient to cater for the level of traffic that is proposed, particularly in the light of the checks that have been undertaken whilst the application has been held in abeyance.

The applicant has also submitted the results of a magnetic survey of the ground beneath the buildings and access. The report confirms that there are solid remains below the ground.

In view of comments about the potential viability of the business, the applicant was requested to carry out an assessment of the business in much the same way that an application for an agricultural workers dwelling would be treated. He noted that this was an unusual request for purely agricultural buildings, but provided information on a confidential basis of the turnover of his business over the past two years. He also asked his consultants to appraise the business; their view is that there is the potential for the business to be successful.

Planning History

There is no recent planning history for the land. This site is not identified in any register as one with archaeological interest.

Responses to Consultations

Sutton on the Hill Parish Meeting objects to the applications for the following reasons (following a public meeting attended by the local community):

- a) The development would be of a size and scale completely out of keeping with the local village and the past use of the land and would have a significant impact on the many dwellings that immediately surround the proposed development. The buildings are tall and this would be added to because of the height of the ground above the road that increases the impact on local residents. There are other locations for this type of production in South Derbyshire some currently vacant for example in the Melbourne area, that area is more suited to horticultural rather than the Sutton area that is more farming orientated.
- b) It is considered that there are many anomalies in the application in terms of the level of employment; the lack of lighting when it is clear that packing would need to take place in the winter months when light is short; the access will clearly require alteration when the applicants consider it adequate.
- c) The development would adversely affect the setting of the Grade II Listed Mill building.
- d) No environment – noise, visual, light impacts have been undertaken; traffic from the site and from delivery of products when the site is short of goods to deliver would be significant; nor has financial assessment of the project been undertaken.
- e) No archaeological study has been undertaken as the site is part of the old village of Sutton.
- f) There are no proposals to mitigate the impact of the development in the form of landscaping.
- g) There is no room to expand the site.
- h) The community wonders what is to happen to waste generated by the development, both in the form of packaging and vegetable material.
- i) There is concern that vegetables will continue to be imported by the business if supplies are short from the site. The agricultural building is more likely to be used for the packaging of produce and is a more industrial use of the land.
- j) If the development were permitted, then strong conditions are required to secure landscaping of the site and minimising the environmental impacts of the proposal.

The County Highway Authority comments that provided this Authority is satisfied the applicant has control over the land to form the visibility splay required in their conditions then there is no objection to the development. Conditions require that the access be widened, visibility splays provided, provision of measures to ensure that surface water does not gather on the highway, wheel wash facilities being available and the operation of the premises being limited to those specified by the applicant's agent in an e-mail to this authority dated 3 December 2008.

The County Development Control Archaeologist has commented that the site may have been the site of a substantial medieval or early post-medieval building shown as Demesne Farm on a map of 1671. The map only provides a schematic view of the village but indicates that the building to have been at least in this vicinity. The Development Control Archaeologist has now also considered an archaeological report and confirms that there appear to be remains below the site. Whilst they may be the remains of the Manor House, the nature of the proposed development would result in a light touch on the ground and as such the archaeologist is happy for his previous advise to remain in place. That is a watching brief be maintained whilst excavation works at

the site is undertaken so that any remains may be recorded by a qualified archaeologist. The Development Control Archaeologist would be willing to prepare a specification for written scheme of investigation (WSI) should planning permission be granted.

The Environmental Protection Manager has no objection to any of the applications but recommends that a condition be imposed to ensure that no livestock occupies the agricultural building on the site as it is close to residential dwellings.

Responses to Publicity

A total of 10 letters have been received objecting to each application, each makes the same points about the applications. The Parish Meeting comments above cover many of the objections made by residents and the objections below are a summary of those made in addition to the Parish Meeting:

- a) Extracts from the history of Sutton Manor have been submitted. It is contended that the lack of an appropriate archaeological survey makes the development contrary to Environment Policy 14 and PPG 15.
- b) The land forms part of an important open space within the settlement that should be protected under Environment Policy 8 of the adopted Local Plan.
- c) Dwellings on Brook Lane and Marlpit Lane surround the site and the proposed buildings pay no respect to those dwellings; moving them further south away from the road would increase impact on the dwellings on Brook Lane.
- d) The business is not economically viable. If the project were unsuccessful, then the applicant or the person following him would look to get building permission on the land. Otherwise the site could become derelict unless there is a condition requiring the removal of the buildings should the venture fail.
- e) It is inevitable that in the first year goods and products would be imported to the site and the barn would be used as a base for the existing business. This represents a change of use of the land from agricultural to warehousing and packing this is not agricultural development. Its presence in the countryside is not justified and is therefore contrary to Environment Policy 1 of the adopted Local Plan in that it would be a conspicuous development in a village setting. This would make the development contrary to Environment Policy 5 of the adopted plan.
- f) Access and parking provision is inadequate, mud would be transferred to the road. The development would result in significant extra traffic through the village impairing village safety. The access to the site is unsafe and its use by vans and lorries would create a danger to all but the best drivers; visibility is inadequate. Photographs have been submitted to illustrate these points.
- g) Drainage from the site would be onto adjacent land that already floods.
- h) There would be significant glare from the glasshouse and this would be detrimental to residential amenity.
- i) There are no offices or toilets shown – how would the business operate in compliance with health and safety legislation.
- j) This is intensive horticultural operation not a development on an agricultural site. The buildings do not need to be that big just to store implements and propagate a few salad vegetables.
- k) The development would be noisy from harvesting equipment and pumps.
- l) If there is security lighting then it should infrared triggered so that it is not on all the time as the village has very little light pollution at the moment.
- m) The hours of operation should be limited to the normal working day.
- n) It is illegal to place such an industrial/agricultural project next to a listed building.

- o) There is no reference to the need for a dwelling on the site albeit the applicant told the community he wanted to live at the site.

In response to the report that was withdrawn from a previous agenda, one of the objectors has submitted the following points in response to the list of produce referred to:

- a) There is considerable doubt as to the ability of the land to produce the amount of crops shown on the list sent to the Local Planning Authority. It is contended that in the winter months some 85% of the produce dispatched from the site would be imported, including the potatoes and carrots already admitted to, and as such the site would be action as a sales and distribution point rather than a bone fide agricultural operation. In the light of the Local Planning Authority is requested to reconsider whether the packing activity is ancillary to the main use of the site.
- b) Another neighbour has noted that the amended plan brings the buildings closer to their property increasing its impact on their amenity.
- c) The owner of the Mill is very concerned that the run-off of surface water from the access drive into the roadside ditch may cause problems on his land through increased flows. He would prefer to see the water draining into the highway drains. A panoramic photograph is also enclosed to show how the objector considers that the building would impact on the setting of the Mill when viewed from the Church Broughton direction.

Following receipt of the information about the access to the site and the amended siting of the buildings; further consultation has been undertaken with the neighbours and the Parish Council. Comments received will be reported at the meeting. The expiry for the receipt of comments was 20 March 2009.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policies 1, 5, 8 & 14.

National Guidance

PPS1 PPS 7 & PPG 15.

Planning Considerations

The main issues central to the determination of this application are:

- Is the development agriculture?
- The need for the development in the countryside in the context of the Development Plan.
- The proposed method of operation
- The impact on the Listed Building
- The impact on neighbours
- Access and Highway considerations
- Mitigation measures
- Considerations in the event that the business is not successful.

Planning Assessment

The development falls within the definition of agriculture for the purposes of Section 336 of the Planning Act 1990,

'...agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly...'

So the development needs to be considered in the light of this and the requirements of the Development Plan policy for agricultural development and development in rural areas. The proposed barn is designed in this business model to pack produce grown on the site and some other low yield produce imported from elsewhere. As such the packing element of the proposal is considered to be ancillary to the main use and offers a more sustainable solution. The proposal therefore can be defined as agriculture under Section 336.

Environment Policies 1 and 5 of the adopted Local Plan deal with development in the countryside and set criteria against which development should be judged. Environment Policy 1 states that development in the countryside is only acceptable if it is essential to a rural based activity. The development is in the countryside and as it falls within the definition of agriculture a countryside location is required. If needed in the countryside, then Environment Policy 5 sets detailed criteria for assessing the impact of agricultural development. In this case the development is sited in proximity to other buildings, albeit that they are unrelated to the development. The development should then be considered in terms of its impact on the landscape, or features of natural history or heritage interest.

The impact of the development on the wider landscape is limited. That is not to say that it would not be visible from the wider area or indeed from houses. From the east the landform and the houses screen the site until passing it. From the south the site would be visible from Brook Lane, a public footpath, on the ridge but would be viewed in the context of the farm behind it and the dwellings on Marlpit Lane. The site is screened from the north by higher ground. Approaching the site from the west the Mill building would substantially screen the site from view and again the houses on Marlpit Lane provide a backdrop to the buildings until one enters the village where the buildings would be apparent.

Thus, in terms of the wider landscape, the development would not be unduly prominent. The site would be visible from the dwellings that abut and look towards the site but there is a minimum separation distance is some 67 metres from the buildings to the rear of the dwellings on Marlpit Lane. This is considered sufficiently distant as to not directly affect the amenity of the occupiers of those dwelling. Millers Barn is 35 metres at its nearest point and the structures would be visible from the garden area of that house. Views from habitable room windows in the rear of the barn conversion would be in excess of 35 metres and at an angle. Houses on Brook Lane are over 100 metres from the proposed buildings. The impact on the listed building is considered separately.

There are no sites that are designated sites of natural history interest but the owners of the Mill have developed the area around the Mill in the interests of nature conservation. It is considered that the development will not affect those interests.

Heritage issues are of major concern to objectors and the Parish Meeting. Notwithstanding the assertions about the presence of a medieval building, there is no formal designation of the site as a site containing archaeological remains. The County Development Control Archaeologist has visited the site and considers that something has happened on the site but without further investigation the nature of the disturbance is not clear. Since the last report was prepared, the applicant commissioned a geophysical survey of the site. This has revealed that there are remains of buildings beneath the site and they could date from the medieval period. It is therefore recommended that it would be appropriate to mitigate any archaeological impacts through an archaeological watching brief on all development ground works (as per the original consultation response). However the preference would be to relocate the buildings away from the remains but it is recognised that the applicant has other constraints that mean this may not be possible. He considers that the proposed works would not significantly affect the remains, as excavations would be fairly limited. However it is recommended that a condition be imposed on each application to ensure that the excavations are monitored and any remains recorded by a qualified archaeologist.

The other heritage issue is the impact of the buildings on the character and setting of The Mill that is a Grade II listed building. Whilst the land abuts the curtilage of The Mill, it would remain in agricultural use. The buildings would be more than 78 metres from the Mill buildings. There would be a change to the appearance of the land however the Design and Conservation Officer considers that whilst the proposed development is not insignificant to the setting of the mill, and will be visible in the approach to it from Church Broughton its impact is neither direct nor significant enough as grounds for refusal.

The appreciation and interpretation of the listed building as a building of special architectural or historic interest will not be impaired by the proposals, and its self-evident status and importance will be undiminished. Its historic context among the watercourse and mill pool, with flatter land to the west, is not affected. The proposed buildings do not mask views of the listed building looking away from the village centre, or on the road entering from Church Broughton. Approaching from Church Broughton, the proposed buildings would be largely hidden behind the mill for part of the approach, becoming more visible as a traveler gets nearer. Even then, the proposed buildings are some distance from the boundary with the Mill and existing planting on the boundary, which could in principle be augmented, would soften their impact. The panoramic photograph submitted by the objector is an exaggeration of the impact of the glasshouse when viewed from Church Broughton Road. The barn would be completely screened from that direction by the Mill and glasshouses would not extend beyond the curtilage of Willow Tree Cottage as is illustrated on the submitted plans.

The prospect of the business not succeeding is of local concern and the applicant has provided financial information to support his business plan. It is considered that the formation of a new agricultural enterprise should be encouraged but it is recognised that in the event that the business does not succeed then there is a potential for the buildings to become derelict. To that end a condition is recommended to ensure that the buildings be removed and the land restored to pasture if the business were not successful and another operator is not found to work the premises as required in the recommendation.

Drainage from the proposed buildings can be controlled through the imposition of conditions and such a condition is recommended for each application.

The design and appearance of the buildings is considered acceptable. Environmental impacts on the immediate population are of concern. This is essentially a growing operation and noise from such operations is expected to be negligible. Should the applicant operate in a manner that is causing a nuisance, the Environmental Protection Manager has powers to deal with that situation under Environmental Protection legislation. It is not considered reasonable to restrict the hours of operation as agriculture has to operate as and when the seasons permit.

Access and parking arrangements have been subject to considerable debate in the local community and is the prime reason the applications have been subject to delay. The County Highway Authority is now satisfied that with the visibility splays occurring in the highway verge, visibility sight lines can be achieved within highway limits and subject to the new parking arrangements on the amended plan, has no objection to the development. Objectors are unlikely to accept this and Members will have the opportunity to view the situation for themselves at the site visit. It should be borne in mind that the access point is to be widened slightly and that the hedge to the village side of the access would need to be realigned along the rear of the visibility splay.

Mitigation measures in the form of a condition for the provision of landscaping for all three applications is recommended, there are parts of the site where landscaping could take place without compromising the integrity of the business.

It is clearly possible for the existing business to transfer from Ashbourne to Sutton on the Hill without the implementation of the whole operation. The Local Planning Authority is advised that the first crop has been planted at the site but that is no guarantee that the business would be fully established on the site. It is considered that a condition should be imposed that requires the main agricultural building should not be occupied until the Phase 2 part of the glasshouse has been erected and is available for operation. This is intended to ensure that the existing business is not established in isolation on the site without the requisite investment in Phase 2 and therefore does not become an independent packing works. This is in line with the aspirations in the planning statement accompanying the application to transfer operations to Sutton on the Hill once the Phase 2 glasshouse is erected.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. WOF390/CAS/RF/AT/03 Rev. B received on 13th March

2009 & AT/02 REV A received on 23 February 2009 except for the requirements of Condition 11 below relating to the provision of the access.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. No part of the building hereby permitted shall be occupied prior to the completion of the glasshouse permitted under planning application 9/2008/1091. Occupation shall be defined as the completion of the building works for the structure and the preparation of beds within the structure for planting as set out in the planning statement that accompanied this application.

Reason: The operation of the business envisaged in the planning application requires the erection of a glasshouse to facilitate the propagation and growing on of vegetables and fruit to provide crops for sale by the applicant. The Local Planning Authority wishes to ensure that the business can operate as an agricultural enterprise founded on the use of the application site in accordance with the terms of the planning application.

4. Unless otherwise agreed in writing by the Local Planning Authority, in the event that the building hereby permitted becomes vacant for a period in excess of 6 months, it and the access track shall be permanently removed from the land and the land shall be restored to pasture, its present use, in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.

Reason: In the interests of ensuring that the character and appearance of the countryside is maintained in the event that the business venture is not successful.

5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall also include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

7. No lights shall be installed at the site, in this case edged red and blue on the application drawings, unless and until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

8. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief on all development ground works to be carried out in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Local Planning Authority. The scheme shall include on-site work and offsite work such as the analysis, publication and archiving of the results. All works shall be carried and completed as approved unless otherwise agreed in writing by the Local Planning Authority. A suitably qualified and experienced archaeological contractor shall undertake all archaeological work.

Reason: To enable items of archaeological interest to be recorded in the event that remains are found.

9. No work shall take place on the site until details of a scheme for the disposal of water from the roof of the building and the access and drive have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use. Surface water from the access and drive shall not be permitted to flow onto the highway surface.

Reason: In the interests of flood protection.

10. The agricultural barn hereby permitted shall be utilised solely for the storage of machinery, produce and packing of produce (as set out in the planning statement and supplementary documents accompanying the application) and shall not be used for any other purpose including the keeping of livestock unless the Local Planning Authority has granted permission for an alternative use in response to a planning application made in that regard.

Reason: In the interests of the amenity of the area.

11. Prior to any other works commencing, the access onto Common Lane shall be provided with a minimum width of 4m and visibility splays of 2.4m x 90m in the westerly direction and 2m x 49m to the east, the area forward of the sightlines shall be cleared and maintained in perpetuity clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge. The access shall be constructed in accordance with Derbyshire County Council's specifications, provided with 8m radii, surfaced in a solid bound material for the first 5m into the site from the highway boundary and provided with measures to ensure that surface water does not flow from within the site onto the highway. The gradient of the access into the site shall not exceed 1 in 14.

Reason: In the interests of highway safety.

12. No gates shall be erected within 10m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: To ensure that vehicles can pull clear of the highway whilst gates are opened in the interests of highway safety.

13. Prior to the premises being taken into use, the parking, manoeuvring, loading and unloading area shall be laid out in accordance with the revised application drawing and maintained thereafter free from any impediment to its designated use.

Reason: In order to ensure that there is adequate parking and manoeuvring space available within the site.

14. Throughout the development period, wheel cleaning facilities shall be provided and retained within the site. All vehicles shall have their wheels cleaned before leaving the site.

Reason: In order to prevent the deposition of mud and other extraneous material on the public highway.

15. Unless otherwise agreed in writing with the Local Planning Authority, the business carried out at the site shall be in accordance with details submitted by the applicant's agent, Richard Foxley, in an e-mail to the Local Planning Authority dated 3 December 2008.

Reason: To ensure that the business operates as specified in the interests of highway safety.

Informatives:

Further to condition 8 above the Development Control Archaeologist at Shand House Dale Road South Darley Dale Near Matlock Derbyshire DE4 3RY (Tel 01629 580000 extn. 3358) should be contacted in the first instance for a written brief from which the Written Scheme of Investigation can be developed.

Item **1.4**

Reg. No. **9/2008/1091/NO**

Applicant:

Mr David Cash
Grove Cotttage
Hanging Bank
Mayfield Road
Ashbourne
DE6 2BN

Agent:

Mr Richard Foxley
Acorus Rural Property Services
Woodthorpe
Wergs Road
Wolverhampton
WV6 8TQ

Proposal: **The erection of glasshouse at Land to the south of
Common Lane Sutton-on-the-Hill**

Ward: **North West**

Valid Date: **31/10/2008**

For detail see report for 9/2008/1090 on this agenda.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. In the event that the structure hereby permitted becomes vacant for a period in excess of 6 months, it shall be permanently removed from the land and the land shall be restored to pasture, its present use, in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.

Reason: In the interests of ensuring that the character and appearance of the countryside is maintained in the event that the business venture is not successful.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall also include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is

the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

5. No lights shall be installed at the site, in this case edged red and blue on the application drawings, unless and until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

6. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief on all development ground works to be carried out in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Local Planning Authority. The scheme shall include on-site work and offsite work such as the analysis, publication and archiving of the results. All works shall be carried and completed as approved unless otherwise agreed in writing by the Local Planning Authority. A suitably qualified and experienced archaeological contractor shall undertake all archaeological work.

Reason: To enable items of archaeological interest to be recorded in the event that remains are found.

7. No work shall take place on the site until details of a scheme for the disposal of water from the roof of the structure has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protection.

8. Prior to any other works commencing, the access onto Common Lane shall be provided with a minimum width of 4m and visibility splays of 2.4m x 90m in the westerly direction and 2m x 49m to the east, the area forward of the sightlines shall be cleared and maintained in perpetuity clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge. The access shall be constructed in accordance with Derbyshire County Council's specifications, provided with 8m radii, surfaced in a solid bound material for the first 5m into the site from the highway boundary and provided with measures to ensure that surface water does not flow from within the site onto the highway. The gradient of the access into the site shall not exceed 1 in 14.

Reason: In the interests of highway safety.

9. No gates shall be erected within 10m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: To ensure that vehicles can pull clear of the highway whilst gates are opened in the interests of highway safety.

10. Prior to the premises being taken into use, the parking, manoeuvring, loading and unloading area shall be laid out in accordance with drawing number

WOL/390/CAS/RFAT/03 REV B and maintained thereafter free from any impediment to its designated use.

Reason: In order to ensure that there is adequate parking and manoeuvring space available within the site.

11. Throughout the development period, wheel cleaning facilities shall be provided and retained within the site. All vehicles shall have their wheels cleaned before leaving the site.

Reason: In order to prevent the deposition of mud and other extraneous material on the public highway.

12. Unless otherwise agreed in writing with the Local Planning Authority, the business carried out at the site shall be in accordance with details submitted by the applicant's agent, Richard Foxley, in an e-mail to the Local Planning Authority dated 3 December 2008.

Reason: To ensure that the business operates as specified in the interests of highway safety.

Informatives:

Further to condition 6 above the Development Control Archaeologist at Shand House Dale Road South Darley Dale Near Matlock Derbyshire DE4 3RY (Tel 01629 580000 extn. 3358) should be contacted in the first instance for a written brief from which the Written Scheme of Investigation can be developed.

Item **1.5**

Reg. No. **9/2008/1092/NO**

Applicant:

Mr David Cash
Grove Cottage
Hanging Bank
Mayfield Road
Ashbourne
DE6 2BN

Agent:

Mr Richard Foxley
Acorus Rural Property Services
Woodthorpe
Wergs Road
Wolverhampton
WV6 8TQ

Proposal: **The erection of glasshouse at Land to the south of
Common Lane Sutton-on-the-Hill**

Ward: **North West**

Valid Date: **31/10/2008**

For detail see report for 9/2008/1090 on this agenda.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. In the event that the structure hereby permitted becomes vacant for a period in excess of 6 months, it shall be permanently removed from the land and the land shall be restored to pasture, its present use, in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.

Reason: In the interests of ensuring that the character and appearance of the countryside is maintained in the event that the business venture is not successful.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall also include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the

completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

5. No lights shall be installed at the site, in this case edged red and blue on the application drawings, unless and until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

6. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief on all development ground works to be carried out in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Local Planning Authority. The scheme shall include on-site work and offsite work such as the analysis, publication and archiving of the results. All works shall be carried and completed as approved unless otherwise agreed in writing by the Local Planning Authority. A suitably qualified and experienced archaeological contractor shall undertake all archaeological work.

Reason: To enable items of archaeological interest to be recorded in the event that remains are found.

7. No work shall take place on the site until details of a scheme for the disposal of water from the roof of the structure has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protection.

8. Prior to any other works commencing, the access onto Common Lane shall be provided with a minimum width of 4m and visibility splays of 2.4m x 90m in the westerly direction and 2m x 49m to the east, the area forward of the sightlines shall be cleared and maintained in perpetuity clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge. The access shall be constructed in accordance with Derbyshire County Council's specifications, provided with 8m radii, surfaced in a solid bound material for the first 5m into the site from the highway boundary and provided with measures to ensure that surface water does not flow from within the site onto the highway. The gradient of the access into the site shall not exceed 1 in 14.

Reason: In the interests of highway safety.

9. No gates shall be erected within 10m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: To ensure that vehicles can pull clear of the highway whilst gates are opened in the interests of highway safety.

10. Prior to the premises being taken into use, the parking, manoeuvring, loading and unloading area shall be laid out in accordance with drawing

WOL/390/CAS/RFAT/03 REV B and maintained thereafter free from any impediment to its designated use.

Reason: In order to ensure that there is adequate parking and manoeuvring space available within the site.

11. Throughout the development period, wheel cleaning facilities shall be provided and retained within the site. All vehicles shall have their wheels cleaned before leaving the site.

Reason: In order to prevent the deposition of mud and other extraneous material on the public highway.

12. Unless otherwise agreed in writing with the Local Planning Authority, the business carried out at the site shall be in accordance with details submitted by the applicant's agent, Richard Foxley, in an e-mail to the Local Planning Authority dated 3 December 2008.

Reason: To ensure that the business operates as specified in the interests of highway safety.

Informatives:

Further to condition 6 above the Development Control Archaeologist at Shand House Dale Road South Darley Dale Near Matlock Derbyshire DE4 3RY (Tel 01629 580000 extn. 3358) should be contacted in the first instance for a written brief from which the Written Scheme of Investigation can be developed.

Item **1.6**

Reg. No. **9/2009/0019/NO**

Applicant:

Mr Stephen Jones
Jones & Company
62 King Street
Belper
DE56 1PZ

Agent:

Mr Andrew Bennett
bi Design Architecture Ltd
79 High Street
Repton
DE65 6GF

Proposal: **The change of use of apartment block (C3 use) to nursing home for the elderly and infirm (C2 use) including a side extension and a rear and side single storey extension to gether with minor alterations to the external layout at 1 Jason Hylton Court Wilmot Road Swadlincote**

Ward: **Swadlincote**

Valid Date: **19/01/2009**

Reason for committee determination

The application is brought before Committee at the request of Councillor Lane because local concern has been raised about a particular issue, which should be considered by the Committee.

The application was deferred at the last committee for a site visit. (*The report has been updated in italics*)

Site Description

The site is located on the south western side of Wilmot Road, Swadlincote, opposite the junction with Hastings Road. Wilmot Road is a residential road, which slopes steeply to the south with a mix of terraced, semi-detached and detached properties of varying styles. 1 Jason Hylton Court is a recently constructed three storey apartment building set on the frontage of the site with gabled roofs and part render, part brick walls. Properties on Dalefield Drive abut the site to the south east and have a 1m lower land level than the application site. The vehicular access is adjacent to this boundary and the parking area is to the rear of the site.

Proposal

Planning permission is sought for a change of use of the apartment block (C3 use) to nursing home for the elderly and infirm (C2 use) including a stairway extension to the side and single storey side and rear extensions together with minor alterations to the internal layout. The stairway extension would be on the north western elevation and would measure 1.9m x 6m of a height of 8.2 metres. The side extension proposed on the south eastern elevation would measure 9.5m x 5.1m of a height of 3.5 m. The rear extension would measure 8.9 m x 7.4m of a height of 3.5m. These single storey

extensions would have flat roofs with projecting roof lights that extend 400mm above the roof.

Applicants' supporting information

The apartment building is almost complete. The apartments have been on sale for sometime but no interest has been shown in the properties. With the poor state of the present housing market and the lack of any demand for apartments within the Swadlincote and Burton housing areas it is most unlikely that the development will be occupied. The use of the building has been re-assessed taking into account local need and demand within the housing market. Demand continues for accommodation for elderly and infirm persons in sheltered accommodation. The apartment building can be simply converted to meet this need without substantially affecting the appearance or character of the building.

Planning History

9/2006/0511 - The demolition of the existing garage and buildings and the erection of 14 new apartments, Approved 31/10/2006

Responses to Consultations

Severn Trent Water has no comments.

The County Highways Authority has no objections subject to conditions.

Environmental Health has recommended a condition in relation to gas protection measures.

Landscape Architect – *In relation to the TPO'd trees on the north western boundary, the Horse Chestnut tree is susceptible to the Bleeding Canker (Phytophthora fungus) disease therefore compensatory planting and careful site handling is recommended. The submitted landscaping scheme would provide sufficient planting (13 trees – 4 on the site frontage). The applicant has confirmed that the three storey stairwell extension proposed adjacent to the Horse Chestnut tree will be constructed from a lightweight steel portal frame with foundations designed as a shallow raft to provide minimum disturbance to the tree roots. Details of the construction shall be controlled by condition 8.*

Responses to Publicity

One letter has been received that raises no objection to the change of use but expresses the following concerns: -

- The original building was piled driven, will this be the case for the extensions as it caused their house to shake?
- The use would include staff and visitors and less car parking spaces are provided than for the apartment scheme.
- Disturbance by staff and visitor vehicles – hours of working

Development Plan Policies

The relevant policies are:

RSS8: Policy 2

National Guidance

PPS1: PPS3

Planning Considerations

The main issues central to the determination of this application are

- the potential impact on the amenity of existing residential properties that abut the site,
- parking provision
- the potential impact on the adjacent protected trees

Planning Assessment

The principle of residential development on this site was established by the granting of the apartment scheme in October 2006 and an assessment of the building in relation to adjoining residential properties was also made at this time.

The windows on the south eastern elevation of the existing building that face properties on Dalefield Drive would serve toilets, landings and stairways which are not classed as habitable rooms and thus overlooking would not be an issue. The proposed single storey extensions would be communal lounge areas for the elderly residents and windows would be 15-20 metres from the rear elevations of the properties on Dalefield Drive, where the standard is 15 metres. The proposed extensions would not create an adverse overlooking impact due to the land level difference of these properties being approximately 1m lower than the application site and the boundary would be screened by a 1.8 m high retaining wall.

The rear of the existing building would be 50m from properties to the rear on Clamp Drive. There is a 1.8m high fence on the rear boundary with 6 m high trees over this boundary. The proposed single storey rear extension would be 42 m from the nearest property to the rear. As this is well in excess of the standard 21 metres therefore overlooking of properties to the rear is not considered to be an issue. The side elevation of Western House is 10m from the north western boundary of the site. The proposed stairway extension adjacent to this boundary would therefore not cause any significant overlooking or overshadowing concerns.

The proposed nursing home would have 36 residents whereas the approved apartment scheme was for 14 two bedroom apartments. Due to the level of care the proposed residents would require the use would not generate the level of car movements that an apartment scheme would. The number of vehicle movements from staff and visitors would be significantly less than that of apartment residents. Twelve car parking spaces are proposed and the County Highways Authority considers this to be adequate for this type of use. They recommend conditions in relation to the access footway, construction of the access and parking area and position of gates.

There is a row of Lime, Sycamore and Horse Chestnut trees over the north western boundary which are protected by a Tree Preservation Order No.39. The stairway extension would be 3m from the trunk of the protected Horse Chestnut tree. The

Landscape Architect has been consulted and his response will be provided verbally at the Committee meeting.

The proposed extensions would not be highly visible in the streetscene of Wilmot Road due to their location to the rear of the existing building. The proposed design and scale of extensions is considered to be in keeping with the building and surrounding area.

The application includes internal layout alterations to the building in order to comply with the Disability Discrimination Act and national standards for care homes. A lift is proposed in the centre of the building and ramped access to the front and level access to the rear. The building would therefore be fully accessible by disabled people.

The type of construction is not a material consideration and construction hours were not controlled previously.

An additional condition has been included to control boundary treatments.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the submitted details, no part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the extensions have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.

3. Prior to the commencement of development the splayed vehicular crossover shall be constructed at the access to the site and the footway fronting the site reinstated as footway, all to Derbyshire County Council's specification and in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

4. Prior to the occupation of development the access into the site shall be laid out and constructed in accordance with drawing No.46A.

Reason: In the interests of highway safety.

5. Prior to the occupation of development the car parking and manoeuvring area shall be laid out in accordance with drawing No. 46A and be maintained thereafter and made available at all times for their designated purposes.

Reason: In the interests of highway safety.

6. Any gates shall be set back 5m from the highway boundary and shall open inwards only.
Reason: In the interests of highway safety.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of the appearance of the area.
8. Prior to the commencement of any work on site a method statement shall be submitted to and agreed in writing for all works under the canopies of the protected trees. The construction of the stairway extension hereby approved shall be carried out in accordance with the agreed details.
Reason: To safeguard the health of the trees.
9. Prior to the commencement of development details of ground gas protection measures in the existing building and proposed extensions shall be submitted and approved in writing by the Local Planning Authority.
Reason: In order to safeguard human health.
10. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the amenity of neighbouring properties and the appearance of the area.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Item 1.7

Reg. No. 9/2009/0050/NO

Applicant:

Mr Alan Walker
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:

Mr Alan Walker
South Derbyshire District Council
Civic Way
Civic Offices
Swadlincote
DE11 0AH

Proposal: The replacement of existing multi use games area with a new multi use games area measuring approximately 28m x 16m , new footpath and associated landscaping works Newhall Park Main Street Newhall Swadlincote

Ward: Nehall and Stanton

Valid Date: 23/01/2009

Reason for committee determination

The Council is the applicant.

Site Description

The application site lies within the boundaries of Newhall Park and is an area of land previously occupied by tennis courts that is currently a Multi –Use Games Area (MUGA). It is located between a bowling green to the east and a footpath and residential properties further to the west. To the north is Main Street a highway with residential properties fronting it on the opposite side of the road. An existing ball catchment net is sited to the west along the existing footpath to protect existing properties but currently due to a gap between the existing fencing areas and the catchment net it does not contain all the balls as it is designed to.

Proposal

The proposal is to remove the existing MUGA, fencing and posts and replace with a new MUGA measuring approximately 15.7m in width x 27.7m in depth, to alter the direction of play to north south, to provide a new footpath where part of the existing MUGA is located adjacent to the bowling green and provide a landscaped area between the bowling green and the new MUGA. The new MUGA will be approximately 20m narrower than the existing one. It will have a solid 3m high surround above which there will be the ball catchment net positioned so as to provide better ball containment.

Applicants' supporting information

In support of the application is a design and access statement which reiterates the point that the works proposed are required to meet safety standards and that the existing

MUGA is in constant need of repair due to damage and its original poor design. Water is retained on the current surface and the new MUGA will ensure that it can be used as a regular facility throughout the year. Due to the cost of refurbishing the facility it has been decided to replace it with a smaller MUGA and to re-surface the current play area.

Planning History

There have been no planning applications in relation to this application site.

Responses to Consultations

The Environmental Protection Manager has commented that a phased approach to development is required and therefore recommends standard conditions be applied with regards to potential contamination.

Responses to Publicity

There has been one letter of objection in response to neighbour consultations. The concerns are summarised as follows:

- Disturbance from people using the existing facility
- Damage to property by youths climbing onto neighbouring property to retrieve balls from the garden area
- High levels of noise in the evenings and weekends
- The ball catchment net is inadequate
- Could the MUGA be relocated into another part of the park away from residential properties?
- Could the MUGA be sited adjacent to the bowling green away from the current boundary?
- Increase in height of ball catchment net is required
- Lockable gates on the MUGA to prevent people using it in the hours of darkness

Development Plan Policies

The relevant policies are:

RSS8: Policies 3 and 4

Saved Policies from the Local Plan: Community Facilities Policy 1

National Guidance

PPS1; PPS17

Planning Considerations

The main issues central to the determination of this application are:

- Development plan policy and national guidance and advice
- The impact of the proposal on the neighbours.

Planning Assessment

Planning Policy Guidance 17 seeks to ensure that where recreational land and facilities are of poor quality or under-used it should not be assumed that this is an indication of

an absence of need in the area. Local authorities should seek opportunities to improve the value of existing facilities and this application seeks to do this.

The application proposed is to improve an existing MUGA by providing improved play areas and equipment and by replacing poor existing boundary fencing and posts. The design of the proposed MUGA will be in keeping with the existing area and Newhall Park and will ensure the continued use and viability of the area. The option to relocate the proposed MUGA to be adjacent to the Bowling Green has been explored and the planning officer has been advised that this is not possible due to continued problems with the bowling green being damaged by youths retrieving balls in the past. As a compromise and to alleviate some of the neighbours concerns amended plans were received on 10 March 2009 showing the existing ball catchment area being extended to cover all of the MUGA area to the west.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawings received on 10 March 2009 with respect to the extended ball catchments net.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets

the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

4. Prior to commencement of the proposed MUGA details of all hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the programme agreed with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

5. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

Item **1.8**

Reg. No. **9/2009/0060/FM**

Applicant:

Mr S Baker
South Derbyshire District Council
C/o Agent

Agent:

Mr Stephen Greaves
S G Design Studio Ltd
202 Woodville Road
Hartshorne
Swadlincote
DE11 7EX

Proposal: **The erection of a detached dwelling on Land At The Rear Of 56-58 High Street Melbourne Derby**

Ward: **Melbourne**

Valid Date: **09/02/2009**

Reason for committee determination

The application is reported to Committee because the Council is the applicant.

Site Description

The site comprises derelict land and a landscaped earth mound. It is situated within the conservation area and is the interface between the historic core of the village and modern development in Thomas Cook Close. There are traditional terraced cottages on the opposite side of the street, set against the highway boundary.

Proposal

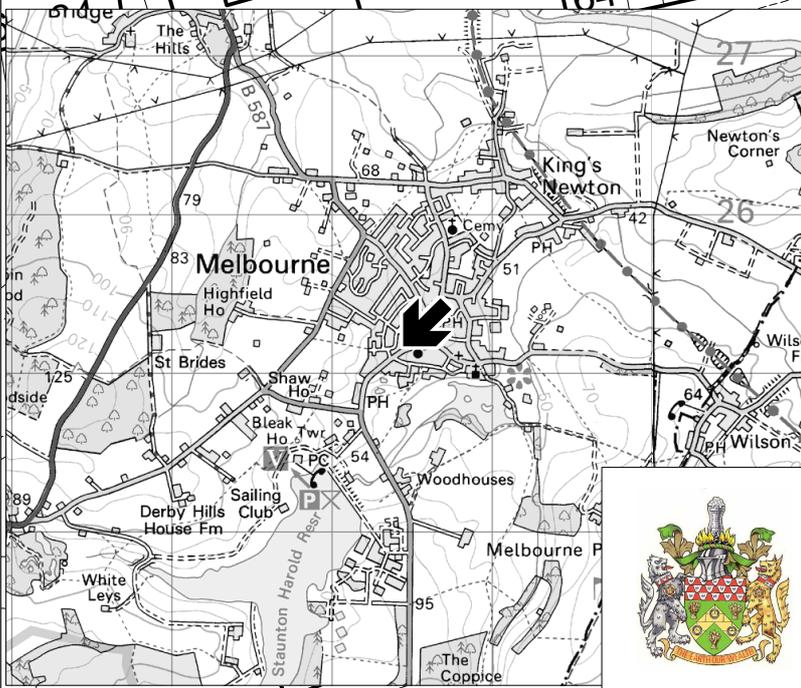
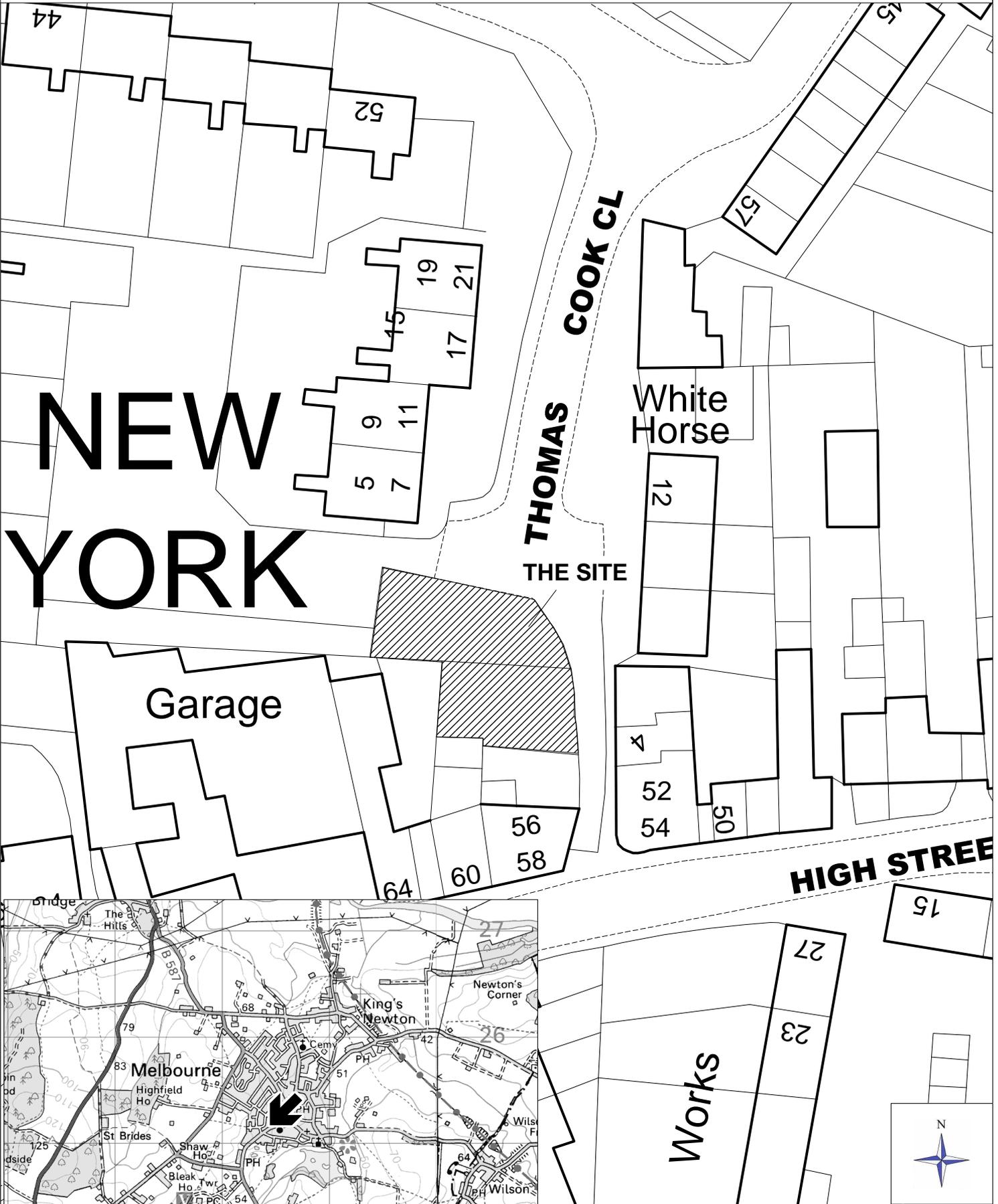
A two-storey dwelling of traditional design and materials is proposed, arranged in an L shape. The main façade of the building would face the turning head in Thomas Cook Close. Two bedroom windows in the side elevation would face the frontages of the existing traditional cottages at a distance of about 12.5 metres. A screen wall would preclude overlooking between ground floor windows. The existing street lamp at the end of Thomas Cook Close would need to be relocated.

Planning History

Permission was granted for a dwelling on part of the site in 2001 (9/2001/0478).

Responses to Consultations

The Parish Council has strong objection on the grounds that this site is one of the few remaining open green spaces in the village that must be preserved. Development would detract from the quality of the village generally and the village scene in particular.



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The Highway Authority is understood to have no objection. Any further comments will be reported verbally.

Melbourne Civic Society, Severn Trent Water Ltd, Contaminated Land Officer and Design and Conservation Officer have no objection in principle. The site lies in the outer zone of the Consultation Distance of major hazard installations (chemical storage at Staunton Harold Reservoir) and the Health and Safety Executive (HSE) has been consulted. The final date for response is 1 April.

Responses to Publicity

Three neighbours object as follows:

- a) There would be loss of light to the neighbouring dwellings, which would increase the need for more artificial lighting therein.
- b) Existing parking congestion would be worsened.
- c) There is no need for the development as many houses are for sale in the area.
- d) Existing property value would be decreased.
- e) There would be loss of privacy.
- f) The land should be used as an open space or parking area.
- g) Building operations would cause undue disturbance.
- h) The loss of the street lamp could be detrimental.
- i) The development would not be in keeping with the character of the area.

Development Plan Policies

The relevant policies are:

RSS Policies 1,2,3 & 27

Saved South Derbyshire Local Plan Housing Policies 5 & 11, Environment Policy 12 and Transport Policy 6

National Guidance

PPG1 PPG13 and PPG15

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Impact on the character and appearance of the conservation area.
- Residential amenity.
- Highway safety.
- Drainage.
- Contaminated Land.
- Hazardous Installation.

Planning Assessment

The site is in the heart of the defined confine of Melbourne, a village with good local facilities. Therefore the proposal is acceptable as a matter of principle.

The design is well considered and appropriate to its historic context. It would deal with land that presently fails to make a positive contribution to the area. Therefore the character and appearance of this part of the conservation area would be enhanced by the proposal.

Whilst two bedroom windows would be only 12.5 metres from habitable room windows to the cottages opposite, supplementary planning guidance makes it clear that such a situation may be unavoidable in historic areas where there is housing set adjacent to the street. With regard to light and overbearing the usual guideline distance is achieved. As such the development complies with Housing Policy 11 and there would be no demonstrable harm to the living conditions of the occupiers of existing dwellings.

The proposal meets the requirements of the Highway Authority in an area where traffic speeds are very low.

There are no drainage issues.

The contaminated land issue could be dealt with by condition.

HSE guidance (PADHI) indicates that small-scale development of one dwelling would not be advised against.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

- A) If a response from the HSE has not yet been received grant delegated powers to the Head of Planning Services to deal with any issues arising from such a response received within the consultation period ending 1st April and **GRANT** permission subject to the conditions set out in (B); or
- B) If no objection in principle from the HSE is received before the Committee date **GRANT** permission subject to the following conditions:
1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
 2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 208-73.01 Rev B and 208-73.02 Rev B received 27 February 2009.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
 3. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.

Reason: To safeguard the appearance of the existing building and the locality generally.

4. Large scale drawings to a minimum scale of 1:10 of eaves, verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves, verges and external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

5. Notwithstanding the submitted details, the dimensions and details of the stone lintels and cills to be used on the front elevation shall be agreed in writing with the local planning authority, and shall then be constructed in accordance with the approved details.

Reason: To ensure that the development is suitable to the character and appearance of the conservation area

6. Notwithstanding the submitted details, the position, design, materials and type of boundary to be erected on the south boundary of the site shall be agreed in writing with the local planning authority and shall be erected in accordance with the agreed details prior the first occupation of the dwelling.

Reason: The details submitted are inadequate to determine whether the appearance of the boundary would be acceptable.

7. The precise type and size of the proposed rooflights shall be submitted to and approved in writing by Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building and the character of the area.

8. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the first occupation of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

9. All boundary walls shall have a traditional style of shaped clay or stone coping the details, a sample of which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area.

10. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area.

11. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of the appearance of the building and the character of the area.

12. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of the appearance of the building, and the character of the area.

13. Sample panels of pointed brickwork and stonework, each 1 metre square or such other area as may be agreed by the Local Planning Authority, shall be prepared for inspection and approval in writing by the Local Planning Authority before the work is generally executed.

Reason: In the interests of the appearance of the building and the locality generally.

14. Prior to the first use of the development hereby permitted, the land in advance of the sight lines shown on Drawing No 208-73.01 Rev B shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level (600 mm in the case of vegetation).

Reason: In the interests of highway safety.

15. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of the dwelling. Thereafter, two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.

Reason: To ensure that adequate parking/garaging provision is available.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Derbyshire County Council's Street Lighting Section should be contacted with regard to securing provision for the relocation of the street lighting collum and associated services also within the land currently located within the site in a position to be occupied by the driveway/parking space .

Item **1.9**

Reg. No. **9/2009/0105/NO**

Applicant:
Mr Frank Briggs
John Port School
Main Street
Etwall
DE65 6LU

Agent:
Mr Philip Bryan
Horsley Huber Architects Ltd
Castleberg Studios
134 Newport Road
Stafford
ST16 2HB

Proposal: **The re-cladding of and external alterations to the
Chatsworth building at John Port School Main Street
Etwall Derby**

Ward: **Etwall**

Valid Date: **06/02/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Lemmon because local concern has been raised about a particular issue.

Site Description

The application relates to an existing school building, within the main complex.

Proposal

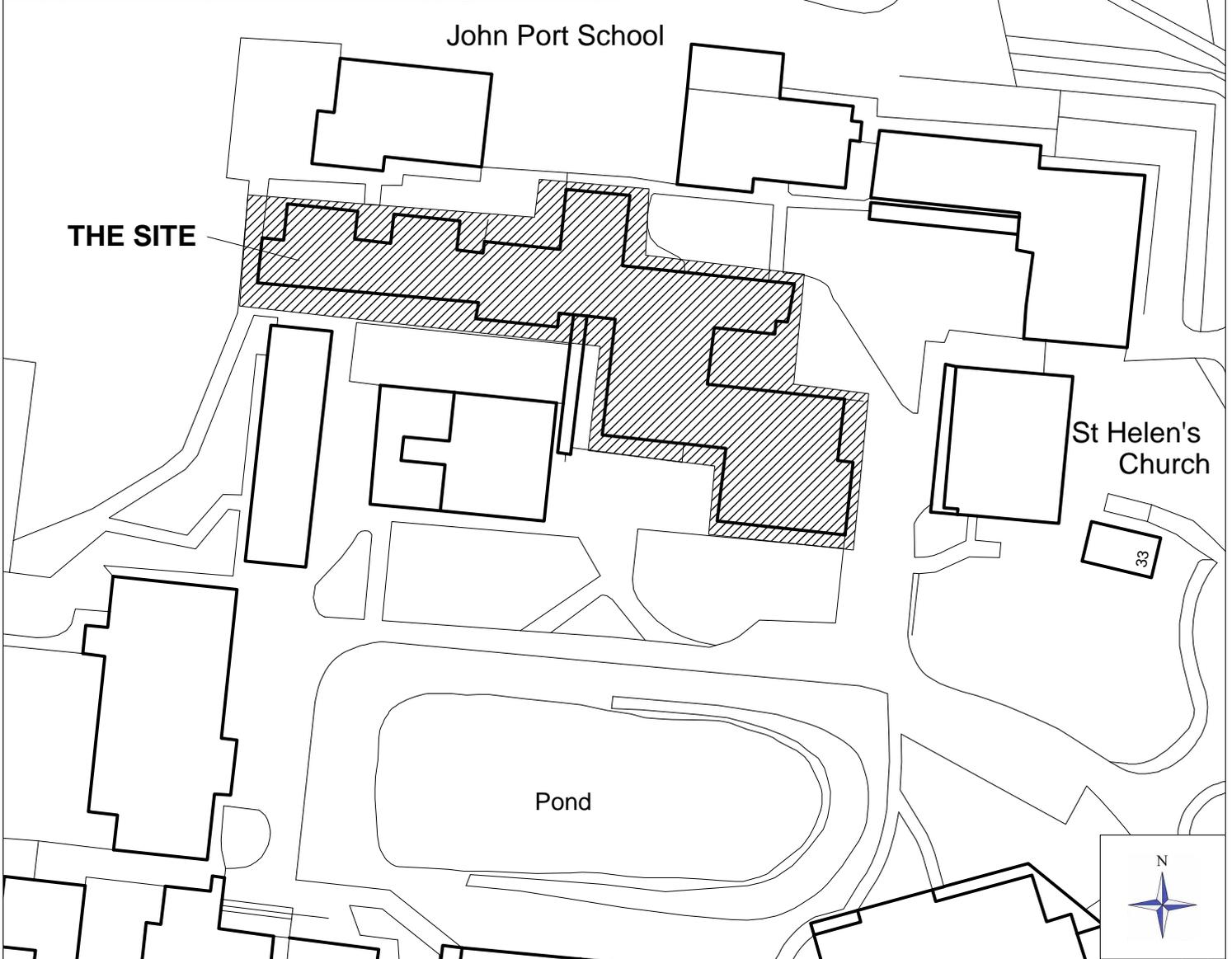
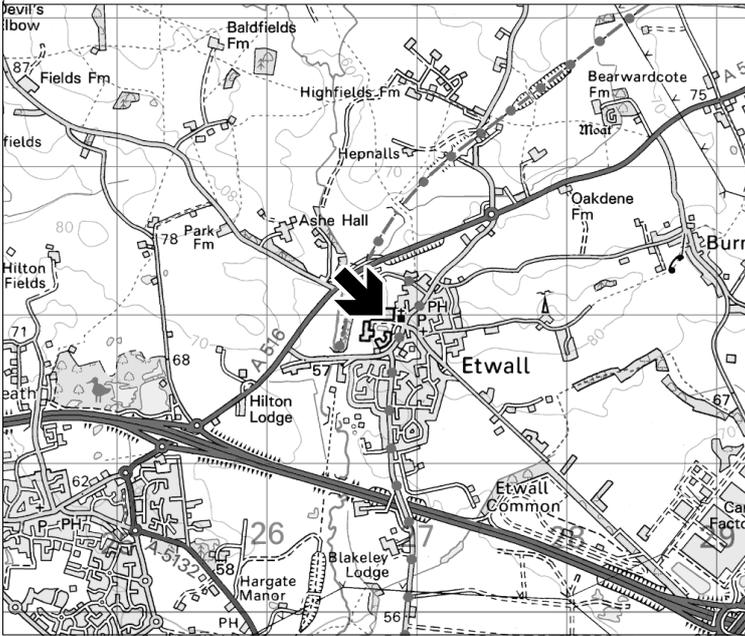
The proposal involves the application of external cladding boards and a render finish to replace the existing concrete panels. The appearance of the building would match others that have been similarly treated.

In addition to the cladding there would be detail elevational alterations and the insertion of a first floor in the old gymnasium to provide exam space.

Applicants' supporting information

- The applicant states that the existing cladding is in poor condition and temporary measures have been employed to stop some of the panels from falling off. The work would be undertaken in two phases, dealing with the worst affected parts first.
- The additional exam floorspace in the gymnasium would meet an existing shortfall and would not be used by the wider community.

9/2009/0105 - Chatsworth Building, John Port School, Main Street, Etwall



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Responses to Consultations

The Parish Council has no objection provided that the building is not hired out when not in use by the school.

Responses to Publicity

Any responses received within the publicity period will be reported verbally.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan Community Facilities Policy 1

National Guidance

None relevant.

Planning Considerations

The main issue central to the determination of this application is the impact on the general character of the area.

Planning Assessment

The proposal comprises demonstrably necessary improvement works that would have minimal environmental consequence.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. The render finish shall match that of the Ashbourne and Flamstead buildings, as described in the submitted Design and Access Statement, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.

3. The additional examination floorspace shall be used solely for school purposes as described in the submitted Design and Access Statement.

Reason: To enable the local planning authority to assess the impact of any future community use.

Item **1.10**

Reg. No. **9/2009/0119/NO**

Applicant:

Mr Frank Briggs
The Governors of John Port School
John Port School
Main Street
Etwall
DE65 6LU

Agent:

Mr Philip Bryan
Horsley Huber Architects Ltd
134 Castleberg Studios
Newport Road
Stafford
ST16 2HB

Proposal: **Proposed amendments to parking provision for the sports centre approved under 9/2007/0381/MD comprising the addition of 16 car parking spaces and 3 mini bus bays and the formation of a footway from main entrance to the sports centre entrance and a fire engine access at John Port School Main Street Etwall Derby**

Ward: **Etwall**

Valid Date: **24/02/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Lemmon because local concern has been raised about a particular issue.

Site Description

The application relates to part of the site of a current building project for a new sports centre, fronting Hilton Road.

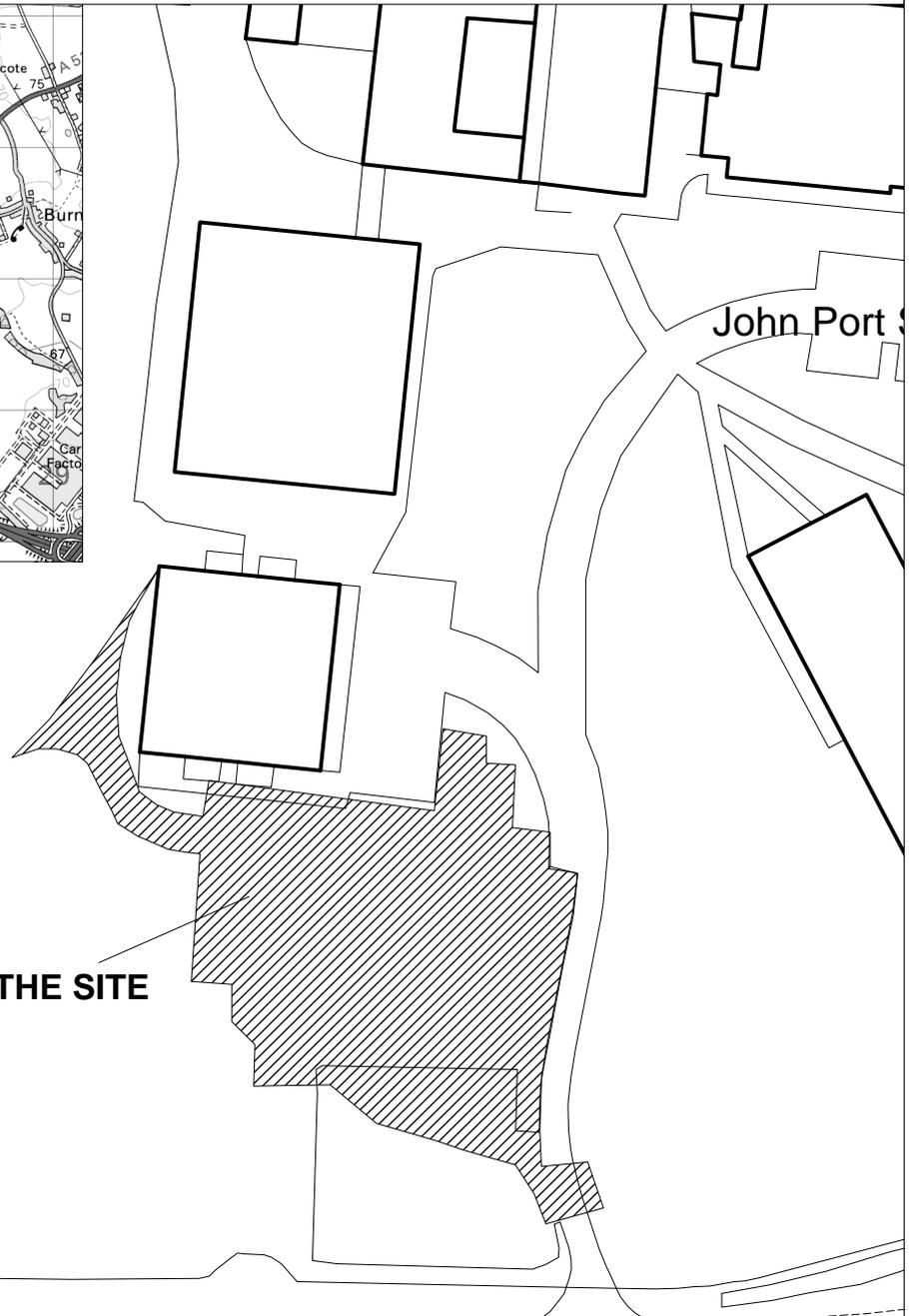
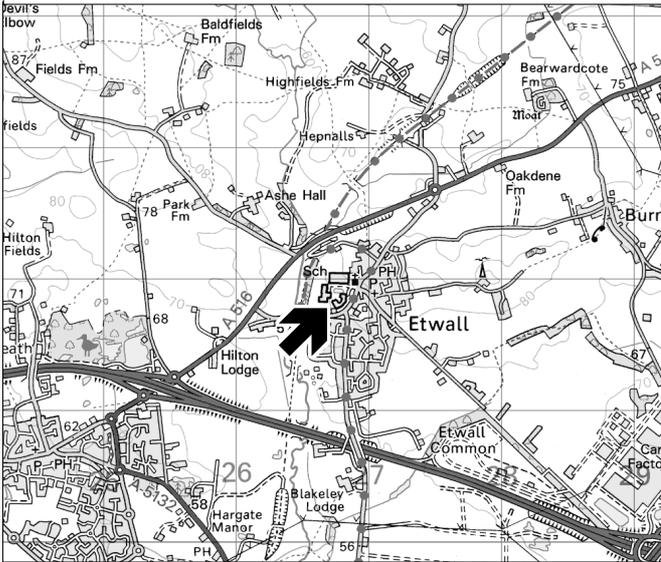
Proposal

The proposal involves the re-design of the approved car park for the sports centre to provide greater parking capacity. There would be an additional 15 spaces for school use during the day and one extra space dedicated to the Sports Centre. Access would be from Hilton Road. Outside school hours, all spaces would be available to community users of the facility.

Applicants' supporting information

The proposal would extend the existing approved layout and maintains the scale and context of the original design. The number of spaces would assist in reducing existing off site parking problems and would help to cater for the parking requirements of the sports centre when large events are staged e.g. swimming galas.

9/2009/0119 - John Port School, Main Street, Etwall

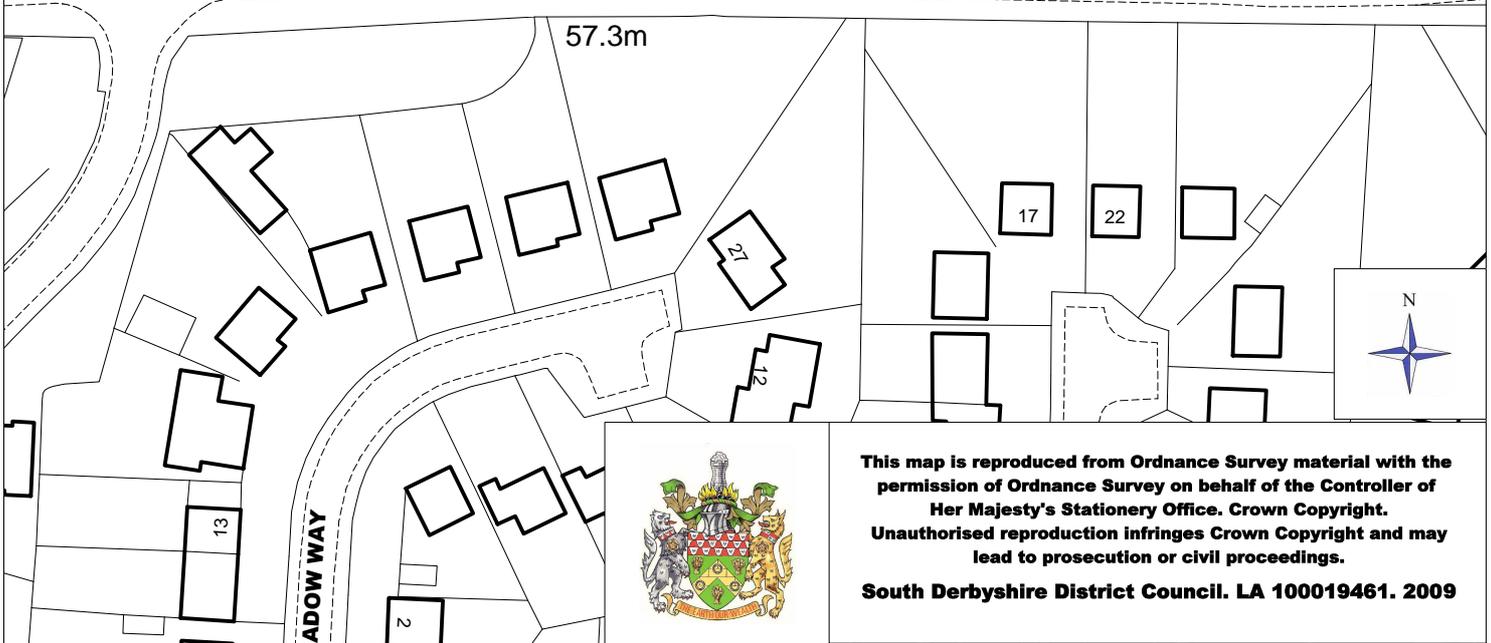


THE SITE

3m

HILTON ROAD

57.3m



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Planning History

The sports hall was permitted in 2007 (9/2007/0381). Condition 3 requires approval and implementation of parking provision prior to first use.

Responses to Consultations

The Highway Authority is understood to have no objection. Any further comments will be reported verbally.

The Contaminated Land Officer has no comment.

Responses to Publicity

Any representations received within the publicity period will be reported verbally.

Development Plan Policies

The relevant policy is:
South Derbyshire Local Plan Community Facilities Policy 1

National Guidance

PPG13

Planning Considerations

The main issues central to the determination of this application are:

- Impact on the general character of the area.
- Transportation.

Planning Assessment

There would be minimal impact on the character of the area.

The proposal would result in an enhancement to a permitted parking facility for school and community usage.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

Item **1.11**

Reg. No. **9/2009/0144/FM**

Applicant:

Ms A Stafford
Blakefield House
Jawbone Lane
Melbourne
DE73 1BW

Agent:

John Church Planning Consultants
Victoria Buildings
117 High Street
Clay Cross
Chesterfield
S45 9DZ

Proposal: **The temporary retention of a mobile home at Blakefield House Jawbone Lane Melbourne Derby**

Ward: **Melbourne**

Valid Date: **18/02/2009**

Reason for committee determination

The application is brought to Committee because the proposal is contrary to the development plan but the officer recommendation is to grant permission.

Site Description

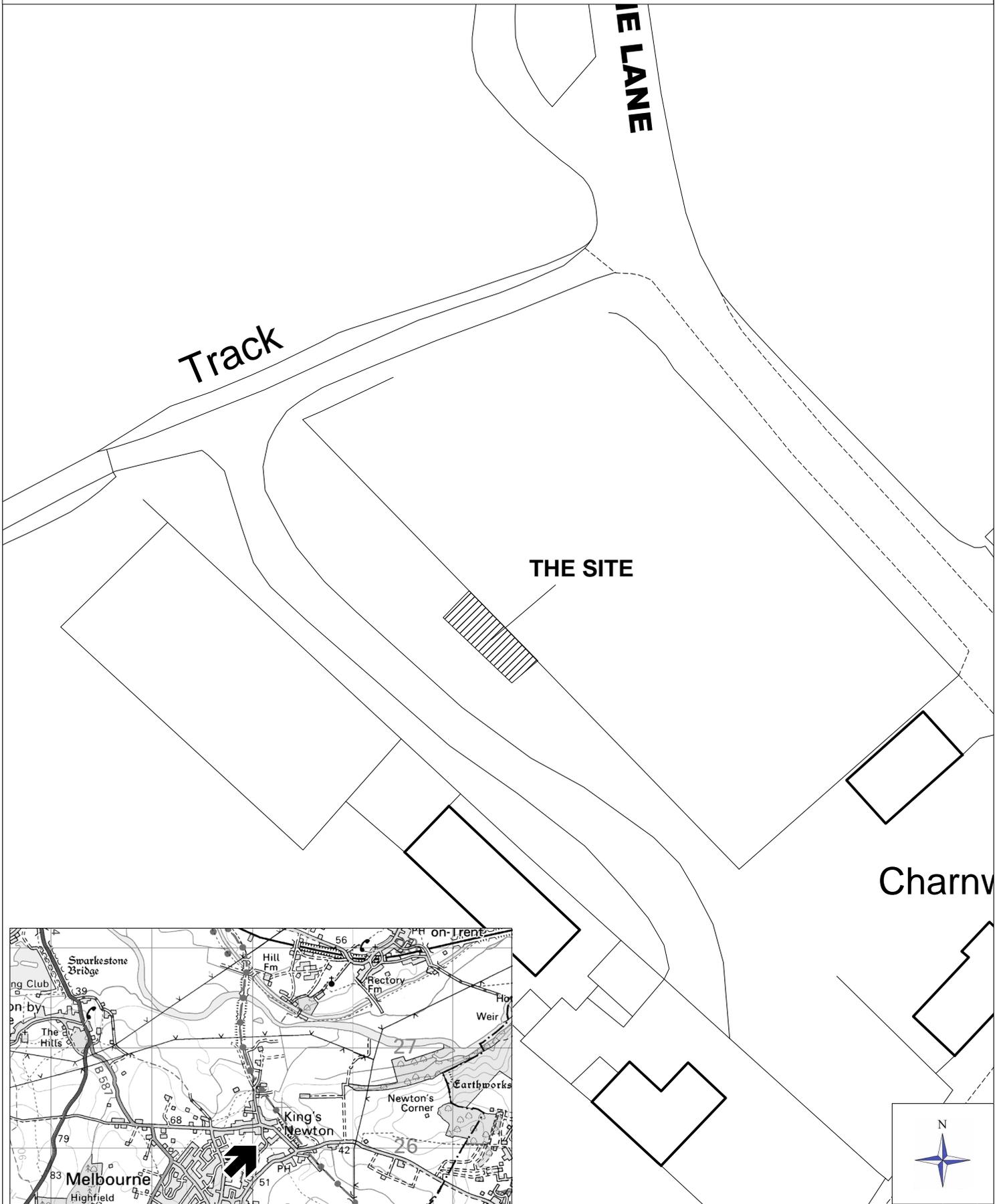
The site is part of the garden/yard to Blakefield House. It is well screened by hedges and buildings.

Proposal

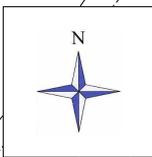
The application is made in retrospect and relates to the siting of a modern mobile home, sufficient in size and level of equipment to provide independent living accommodation.

Applicants' supporting information

- The applicant and her fiancé have encountered employment problems due to the recession, which led to the loss of their home. They also have a need to have close access to the applicant's parents as her mother has long term health problems that require her to be available at short notice.
- Most meals are taken in the main house.
- The family is exploring the possibility of extending the house to provide the required accommodation, so the retention of the mobile home would be for a temporary period only. A three year period is sought.
- The mobile home is situated within the curtilage of Blakefield House and it is hoped that the applicant's particular personal circumstances can be taken into account.
- The site is not unduly prominent.



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Planning History

Outline permission was refused for two dwellings on the site in 2005 (9/2005/1349).

Responses to Consultations

The Parish Council has no objection.

The Highway Authority has no objection in principle.

The Contaminated Land Officer has no comment.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

RSS8: Policy 3

South Derbyshire Environment Policy 1 and Housing Policy 8

National Guidance

PPS7

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Impact on the countryside.
- Access and parking.

Planning Assessment

The site lies outside the confine of Melbourne and Kings Newton and residential development here would be contrary to policy. However the applicant has stated that personal circumstances have emerged that have necessitated short term measures. A temporary permission would be proportionate to those circumstances, whilst safeguarding the prevailing policy against new housing development in this location.

Because of the secluded nature site, the impact on the character of the countryside would be minimal.

The Highway Authority raises no objection on the basis that the mobile home would be used by the extended family and not as a separate entity.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 31 March 2012 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: The site lies in an area where residential development is resisted by RSS8 Policy 3 and South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8 on the grounds of countryside protection and sustainability. The Council is only prepared to grant permission on the basis that it is for a strictly limited period to enable the applicant to deal with unforeseen short-term circumstances.

2. The living accommodation hereby permitted shall be occupied solely by members of the household of Blakefield House, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: The site lies in an area where residential development is resisted by RSS8 Policy 3 and South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8 on the grounds of countryside protection and sustainability. The Council is only prepared to grant permission on the basis that it is for a strictly limited period to enable the applicant to deal with unforeseen short-term circumstances.

Item **1.12**

Reg. No. **9/2009/0150/NO**

Applicant:
Mr Frank Briggs
John Port School
Main Street
Etwall
DE65 6LU

Agent:
Horsley Huber & Associates
Castleberg Studios
134 Newport Road
Stafford
ST16 2HB

Proposal: **The erection of childrens centre at John Port School
Main Street Etwall Derby**

Ward: **Etwall**

Valid Date: **18/02/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Lemmon because local concern has been raised about a particular issue.

Site Description

The application site is adjacent to a current building project for a new sports centre and car park, fronting Hilton Road

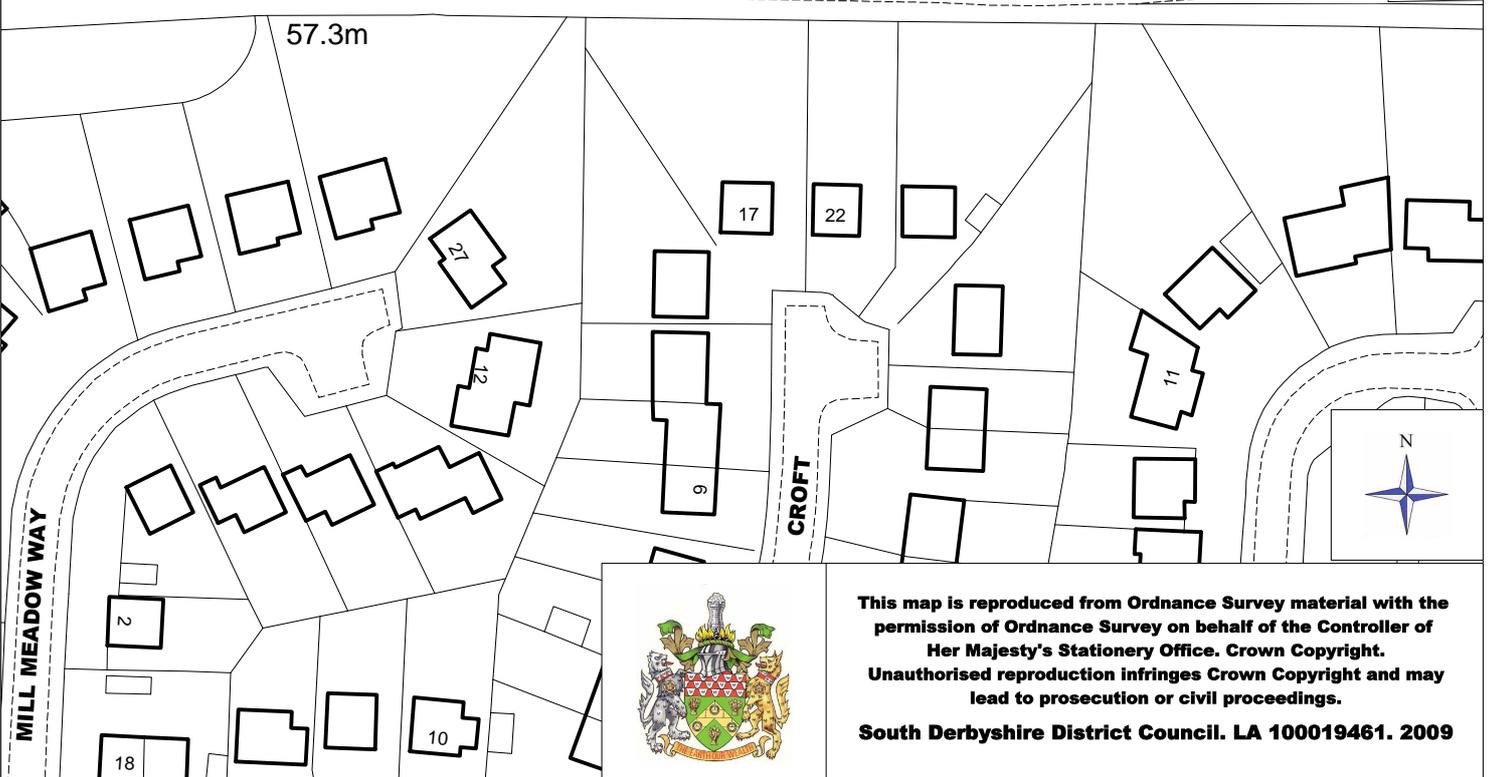
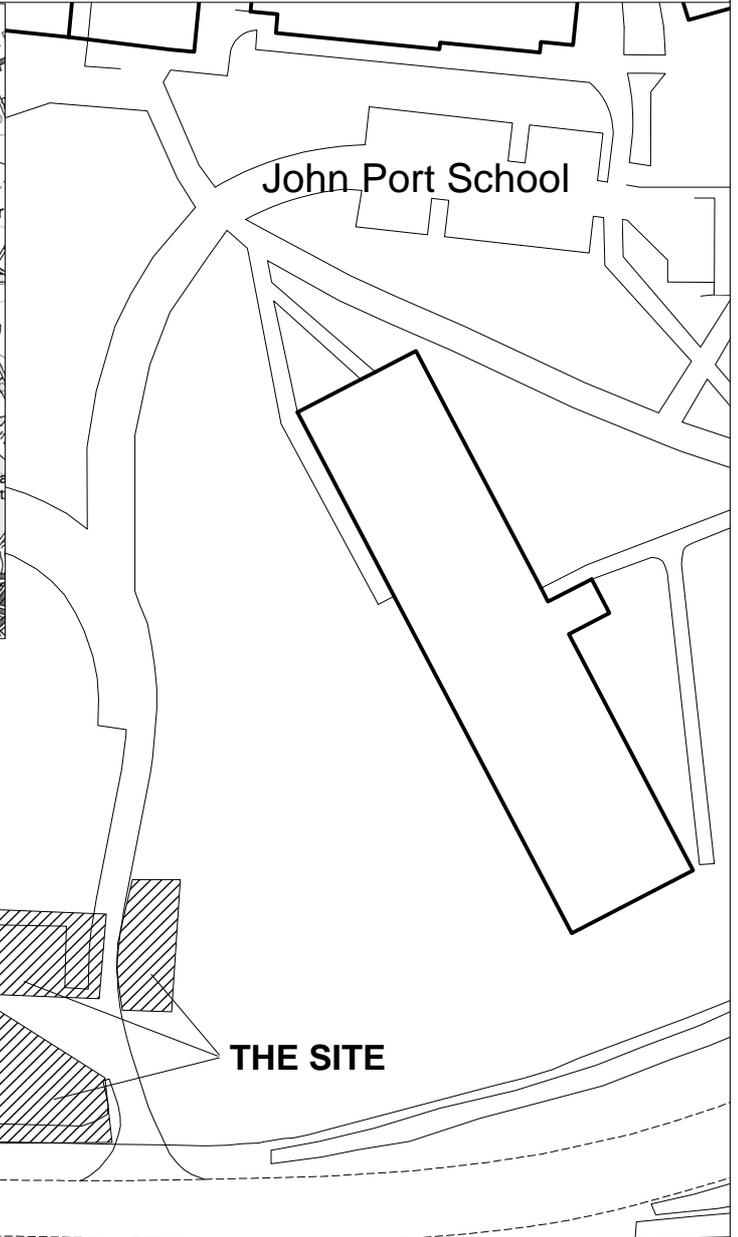
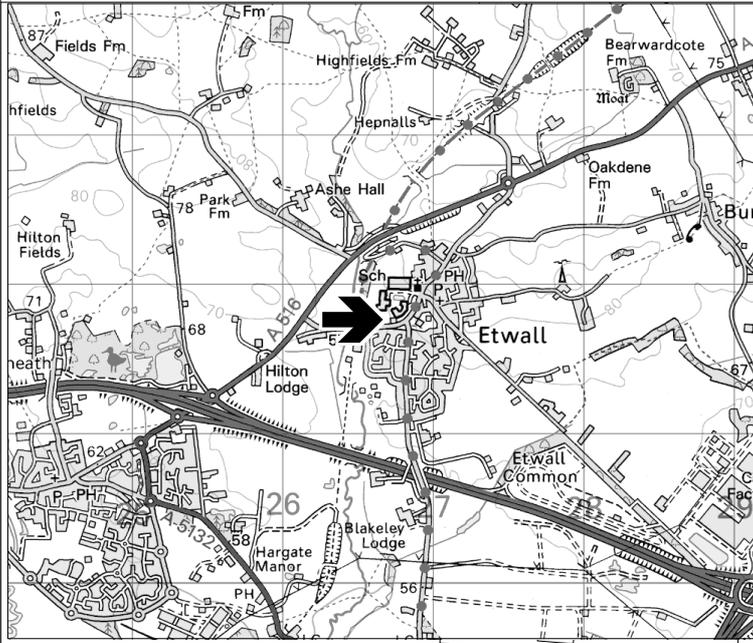
Proposal

The proposal involves a single storey building, of 213 square metres. The modern design of the building would feature curved walls, in the horizontal and vertical planes. It would have brightly coloured rendered walls over a small brick plinth. Access would be from Hilton Road and there would be 15 dedicated parking spaces.

Applicants' supporting information

- The application arises from a government requirement to provide support for families with children under the age of 5, providing early education, childcare, family support and outreach for parents, child and family health services, Job Centre Plus, along with information, advice and personal signposting.
- The building would be a 'hub' from which services are co-ordinated. Some services would be delivered from the 'hub' but others would take place at 'satellite' sites.
- The buildings would offer a full range of family support and related health services, as well as a management and administrative base for the Centre. Day care would not be offered on the site. There would be 6 full time staff and 2 visiting professionals.

9/2009/0150 - John Port School, Main Street, Etwall



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- The catchment area has not yet been finalised but the government requires each Centre (hub and satellites) to serve at least 700 children under the age of 5. At other school sites it has been demonstrated that about 80% of users visit the site on foot. However given that this is a rural location it is likely that there would be a lower number arriving on foot.
- A draft travel plan is proposed, which would be updated once the Centre is up and running.

Responses to Consultations

The Contaminated Land Officer has no objection in principle.

The Highway Authority is understood to have no objection. Any further comments will be reported verbally.

Responses to Publicity

Any representations received within the publicity period will be reported verbally.

Development Plan Policies

The relevant policies are:

RSS: Policy 1

South Derbyshire Local Plan: Community Facilities Policy 1 and Transport Policy 6

National Guidance

PPG1 PPG13

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Impact on the character of the area.
- Residential amenity.
- Access and parking.
- Contaminated land.

Planning Assessment

The proposal would provide a new community facility for which there is a demonstrable need. The location reflects the accessibility and local facilities available in Etwall. Therefore the proposal is acceptable as a matter of principle.

The design would be appropriate to its context and would be in keeping with the general character of the area.

Having regard to the location of the site within the existing school and sports centre grounds, there would be no demonstrable loss of amenity to local residents.

Access and parking provision would be adequate for the facility, independent of other car parking facilities at Etwall School. A condition requiring the full Travel Plan to be

agreed with the local planning authority would ensure that private car journeys are minimised.

Conditions as recommended by the Contaminated Land Officer would ensure that this issue is safeguarded.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.

3. The areas shown on the approved plan no 4019 P0003 for the parking and manoeuvring of vehicles shall be laid out and hard surfaced prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

4. The development shall not be occupied until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure the continuous implementation, monitoring, evaluation and, as necessary, amendment of a Full Travel Plan based on the Travel Plan submitted with the application.

Reason: To minimise travel by private car in the interest of sustainability.

5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the

completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

7. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

8. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

Informatives:

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

2. PLANNING AND OTHER APPEALS

(references beginning with a 9 is planning appeal and references beginning with an E is an enforcement appeal)

Reference	Place	Ward	Result	Cttee/delegated
9/2008/0168	Long Lane	North West	Dismissed	Committee
9/2008/0566	Swadlincote	Swadlincote	Part Dismissed/Allowed	Delegated
9/2008/0346	Newhall	Newhall	Dismissed	Delegated



Appeal Decision

Site visit made on 9 February 2009

by **C Hughes BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
13 February 2009

Appeal Ref: APP/F1040/A/08/2090393

The Three Horseshoes Public House, Long Lane, Near Ashbourne, Derbyshire DE6 5BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Three Horseshoes Limited against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0168/U, dated 12 February 2008, was refused by notice dated 10 June 2008.
- The development proposed is change of use of the public rooms to that of residential.

Decision

1. I dismiss the appeal.

Reasons

2. National policy in Planning Policy Statement 7 supports the retention of local facilities, such as public houses, that play an important role in sustaining village communities. The Three Horseshoes is a long-established public house in the rural settlement of Long Lane, and the appeal application is effectively one to change the use of the premises from a public house to residential.
3. Long Lane is a small settlement with little public transport provision. The present owners purchased the premises 19 years ago to prevent closure. I prefer the appellant's evidence of trading difficulties and low rental levels to those of other parties, because the appellant company has a more direct experience of these matters. It seems to me that the company has made substantial efforts to keep the Three Horseshoes trading.
4. The company has advertised for tenants, and there has been considerable turnover of tenants. Nevertheless, there is evidence that other parties are interested in operating the premises as a public house. A former tenant offered to rent the property, although at a substantially reduced rent. More importantly, he has also offered to buy the Three Horseshoes. More recently, a local businessman has also offered to purchase the property. These approaches have been from people familiar with the problems of viability. The approaches have not led to agreements on price, but it seems to me that marketing the property would offer the possibility of the public house being retained to serve the community.
5. I give substantial weight to the trading disadvantages from which the Three Horseshoes suffers, and to the difficulties of achieving viability. However, in the

light of national policy and the position of the Three Horseshoes in the local community, as evidenced by the representations from local people, I conclude that it would be premature to grant planning permission for the change of use.

C Hughes



Appeal Decision

Site visit made on 28 January 2009

by **Jean Jones** MA DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
11 February 2009

Appeal Ref: APP/F1040/A/08/2083243 33 Chiltern Road, Swadlincote, DE11 9ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Jennifer Mancini against the decision of South Derbyshire District Council.
- The application Ref 2008/0566, dated 28 May 2008, was refused by notice dated 14 July 2008.
- The development proposed is extensions to rear and side.

Decision

1. I dismiss the appeal insofar as it relates to the side extension. I allow the appeal insofar as it relates to the rear extension and I grant planning permission for a single storey rear extension at 33 Chiltern Road, Swadlincote, DE11 9ED in accordance with the terms of the application, Ref 2008/0566, dated 28 May 2008 and the plans submitted with it, so far as relevant to that part of the development hereby permitted, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Main issue

2. The main issue is the impact of the extensions on the character and appearance of the appeal property and its surroundings.

Reasons

3. The proposal is for a single storey extension to the rear and a two storey side extension wrapping around to the front of the house. The single storey rear extension would be visually acceptable and would not harm the living conditions of neighbours. This part of the proposal would not conflict with the development plan and there are no grounds for refusing planning permission for it.
4. The two storey extension however, would create a large gable on the front of the house. This would unbalance the design and be over dominant in the

street scene because of its width and forward projection. The arrangement of three first floor windows under the gable would be poorly related to the design. Because of the prominent location at the top of a hill, with open views from a footpath alongside, the extension would be a dominant feature in the street scene. I have concluded that it would not have a scale and character in keeping with the property and that it would harm the general character of the area, thus conflicting with Local Plan policy HP 13.

5. Although the area is mixed and there have been a number of large extensions nearby, the locations of these are not identical to the appeal property, in particular they do not share its prominent position in the street scene. I have taken into account the appellant's suggestion that the size, number and proportions of the windows could be amended but this would not improve the scale of the extension and it would remain unacceptable.
6. As the single storey rear extension is separate from the side extension, I consider that this is a case where a split decision could be made. I shall therefore dismiss the appeal in respect of the two storey side extension but allow the appeal in respect of the single storey rear extension, subject to a condition requiring matching materials to ensure that it is well integrated with the house.

Jean Jones

INSPECTOR



Appeal Decision

Site visit made on 28 January 2009

by **Jean Jones** MA DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
12 February 2009

Appeal Ref: APP/F1040/A/08/2089145

St John's Vicarage, Church Street, Newhall, Swadlincote DE11 0HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by The Derby Diocesan Board of Finance Ltd against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0346/F, dated 21 March 2008, was refused by notice dated 16 May 2008.
- The development proposed is one house.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are the impact of the proposal on (1) highway conditions in the vicinity and (2) the character and appearance of its surroundings including protected trees and the setting of the adjoining grade II listed building, the former St John's Vicarage.

Reasons

3. The site is a piece of woodland within the built up area of Newhall. In principle this is a location where new residential development would be acceptable and efficient use of land is encouraged by development plan and national policies.
4. **Issue (1):** The site would use the existing driveway serving the new vicarage. Church Street is narrow but serves a number of garages and parking spaces to the rear of buildings on High Street. Church Road, which is the only access into it from High Street, is wide enough for two vehicles to pass and provides access to the church car park. Visibility at its junction with High Street is satisfactory to the west but only about 2.4m by 22m to the east rather than the 2.4m by 43m normally sought by the Highway Authority in a 30mph zone. However, there is good pedestrian visibility.
5. It is my assessment that the vehicles generated by one more dwelling would not be a significant addition to existing traffic which appears to use these streets without notable problems to the free or safe flow of traffic. The proposal would not affect the public right of way which goes past it. I therefore conclude that there would be no conflict with development plan policies or national/regional policies relating to transport and access.

6. **Issue (2):** The appellants point out that a previous application for three dwellings was refused on highway grounds only and that it was inconsistent of the Council to add reasons 2, 3 and 4 to the refusal notice in this case. However, I am empowered to deal with the application as if it had been made to me in the first instance and have a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting. It is clear to me that the appeal site is part of the setting of the listed former vicarage – it used to be part of its grounds and is now separated only by the driveway to the new vicarage at the rear.
7. Part of the character of the setting of the listed building is the wooded nature of the appeal site. The trees are protected by a Tree Preservation Order (TPO) which in 1984 covered several individual trees but was amended recently to cover the woodland as a whole. The appellant's tree survey and my own observations on site confirm that the trees have suffered from a lack of management and that, since the original TPO, some of them have grown up poorly shaped. I consider that, in principle, it would be acceptable to carry out selective pruning and felling in order to allow some beneficial development of this disused land, provided that there were appropriate replanting to retain the overall character.
8. However, the appeal proposal would site a 4 bedroomed two storey house with large garage in the centre of the land. This would be in line with the main elevation of the former vicarage, a simple but well proportioned early 19th century house. I observed that there are attractive views from the adjoining public footpath of this elevation of the former vicarage together with the church itself, which is also a listed building. The proposed new house would impede this view and be over dominant in the setting of the listed building because of its height/bulk and its location on higher ground. While the detailed design and materials are suitable for the locality, I consider that the scheme as a whole would fail to preserve the setting of the listed building. Because of its height and footprint, including the garage, the extent of tree removal involved would harm the character and appearance of the surroundings. For these reasons it would not accord with the development plan in terms of Local Plan policies ENV9 and 13, nor with national and regional policies regarding design.
9. I have taken into account the desirability of making good use of the land and the view of neighbours that development would prevent vandalism and misuse. However, these do not outweigh the identified harm and the conflict with the development plan. I have had regard to whether the proposal could be made acceptable through the use of planning conditions but these could not alter the fundamental aspects which lead me to dismiss the appeal.

Jean Jones

INSPECTOR